

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3360 of 2017

Nilam Kumari, wife of Shri Baskit Nath Sharma, resident of Village-Dilawarpur (East), P.O.- Bidupur Bazar, P.S.- Bidupur, District- Vaishali.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. Director, Primary Education, Bihar, Patna.
4. District Magistrate, Vaishali.
5. District Education Officer, Vaishali.
6. District Programme Officer (Establishment) Vaishali.
7. Executive Officer-cum-Block Development Officer, Bidupur, District-Vaishali.
8. Block Employment Committee, Bidupur through the Executive Officer-cum-Block Development Officer, Bidupur, District-Vaishali.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. Amit Bhushan, AC to GP-17

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 26-09-2023

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner in the present writ application is
seeking the following reliefs:-

“(i) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the office order dated 15.11.2016 (Annexure-11) issued by respondent No. 6, by which in furtherance of the directions taken by the Block Employment Committee, Bidupur during its meeting held on 14.11.2016, the services of the petitioner in the capacity of Block Teacher at upgraded Middle School, Bidupur Dih (Bidupur) in the District of Vaishali has been cancelled.



(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities to refrain from giving effect to the directions contained under the office order dated 15.11.2016 issued by the Executive Officer-cum-Block Development Officer, Bidupur, District- Vaishali.

(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities in the office of the Executive officer-cum-Block Development Officer, Bhagalpur in the District of Vaishali (Teachers Employment Cell) to allow the petitioner to continue in the capacity of Block Teacher at Upgraded Middle School, Bidupur Dih, Bidupur pursuant to her employment as such in accordance with law along with all the consequential benefits.

(iv) Any other relief(s) that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

Case of the Petitioner

3. It is the case of the petitioner that she was a student of Non-Government Primary Teacher’s Training College, Balughat, Muzaffarpur of the Basic Teacher’s Training course during the Academic Session 1985-87. The Basic Teacher’s Training examination was conducted by the Bihar School Examination Board (hereinafter referred to as the ‘Board’) and she was declared to have passed the said examination in 1st Division. The Board issued a certificate dated 05.01.1993 as contained in Annexure ‘2’ to the writ application.

4. In the year 2006, the process for appointment of Teachers in different schools within the State of Bihar was commenced. The then Home Resource Development Department,



Bihar, Patna wrote letter dated 18.09.2006 to all the District Education Officers, District Superintendents of Education and Sub-Divisional Education Officers within the State of Bihar to inform them the general directives and guidelines to be followed while making appointments in different primary, middle, secondary and senior secondary schools in the State of Bihar.

5. Referring to the letter dated 30.11.2006 (Annexure '5' to the writ application), the petitioner contends that vide the said letter, the then District Education Officer had clearly indicated that for the Academic Session 1983-85 to 1986-88, examination of which were conducted on 20.09.1988 was recognised and the examination had been conducted with the permission of the State Government. The concerned Department of the State Government had also issued letter dated 30.11.2006 by which all the District Superintendents of Education and other authorities were directed to take steps in furtherance of a direction contained in the letter dated 18.09.2006 (Annexure '4').

6. It is the case of the petitioner that she was appointed as Panchayat Teacher in the Government Primary School, Bidupur in the District of Vaishali vide Letter dated 15.11.2007 as contained in Annexure '7' to the writ application. She joined there and when she was continuously discharging her duties in the



capacity of Block Teacher at Upgraded Middle School, Bidupur, all of a sudden vide letter dated 01.08.2016 issued by the Office of the Executive Officer-Cum-Block Development Officer, Bidupur, she was directed to furnish explanations as to why the State should not take steps for relieving her from the post of Block Teacher in view of the letter dated 26.02.2013 issued by the concerned authorities under the Education Department of the State of Bihar.

7. Learned counsel submits that vide letter dated 20.09.2016 issued by the concerned authorities once again the petitioner was directed to furnish explanation which was complied with by the petitioner vide Annexure '10' to the writ application. The Executive Officer-cum-Block Development Officer, Bidupur, however, issued the impugned office order dated 15.11.2016 (Annexure '11') by which the service of the petitioner has been terminated on the ground that she was not having a valid teacher's training certificate for the purpose of employment/appointment. The appointment of the petitioner was, thus, cancelled vide office order dated 15.11.2016 as contained in Annexure '11' to the writ application.

Submission on behalf of the Petitioner

8. Mr. Abhinav Srivastava, learned counsel for the petitioner has assailed the impugned order on various grounds. It is



submitted that some of the teachers similarly situated with the petitioner had moved this Court in CWJC No. 4506 of 2016 and CWJC No. 3932 of 2016. In their cases, this Court passed a judgment dated 04.10.2016 whereby the order of termination of the services of such persons were quashed after holding that they possessed valid teacher's training certificate. Subsequently, by an office order dated 22.11.2016 (Annexure '12'), the services of those persons were restored along with all consequential benefits.

9. The petitioner submitted a representation dated 24.11.2016 as contained in Annexure '13' to the writ application but the same was not considered. It is contended that on bare perusal of the judgment passed by this Court in CWJC No. 4506 of 2016, it would appear that the Departmental Letter No. 108 dated 26.02.2013 was placed before the Hon'ble Court with the counter affidavit filed on behalf of the Respondent No. 5 and the same was part of the records which were under consideration, however, the learned Writ Court did not accept the same and proceeded to pass an order. It has been held that the State Counsel was not able to counter the position existing at Annexure '3' as well as the fact that the certificate was issued to the petitioners by the Bihar School Examination Board certifying their qualification of passing



of teacher's training examination and the said certificates had not been interfered with.

10. Learned counsel submits that the judgment of this Court in CWJC No. 4506 of 2016 and CWJC No. 3932 of 2016 were subject matter of the LPA No. 1310 of 2017 and 1309 of 2017 respectively. The Hon'ble Division Bench of this Court having heard learned counsel for the parties found no reason to interfere with the judgment of the learned Writ Court. The submission of learned counsel for the petitioner is that this case would be squarely covered by the judgment of this Court in CWJC No. 4506 of 2016 which is a judgment of learned Co-ordinate Bench of this Court.

Stand of the State

11. Learned counsel for the State submits that since the result was published subject to outcome of the decision of Government, and now the Government has not recognized the institution, a certificate will be deemed to have become invalid.

Consideration

12. Having heard learned counsel for the petitioner and the State, what has ultimately transpired from the records is that this petitioner was a student of the Teacher's Training College in question and her examination was conducted by the Board as also



the result was published subject to the outcome of the decision of the State Government with regard to the recognition to the college in question. Although, Annexure 'A/1' mentions a departmental letter No. 278 dated 24.06.1992 by which the State Government is said to have refused to grant recognition to the college in question, the fact remains that the result which was published had never been cancelled. Instead the District Education Officer in his communication dated 30.11.2006 as contained in Annexure '5' to the writ application directed all the Block Development Officers, Block Education Extension Officers and Panchyat Secretary of the Gram Panchyat that the examination of this college for the Academic Session 1983-85 to 1986-88 conducted on 20.09.1988 is recognized. It is because of this communication, the Employment Units proceeded to consider the certificate provided by the petitioner for purpose of employment. The petitioner was appointed in the year 2007 but after about 9 years, she was served with a show cause and thereafter, she has been terminated on the ground that she did not possess a valid certificate.

13. To this Court, it appears that the issues regarding validity of the certificate of the petitioner is no longer open for consideration afresh by this Court in view of the judgment of the learned Co-ordinate Bench of this Court in CWJC No. 4506 of



2016 which has not been interfered with by the Hon'ble Division Bench in LPA No. 1309 of 2017. In fact, this Court has been informed that the respondents have complied with the judgment of the learned Co-ordinate Bench of this Court in CWJC No. 4506 of 2016 and LPA No. 1309 of 2017 by issuing a consequential office order as contained in Memo No. 4430 dated 22nd November, 2016. A perusal of this office order of compliance as contained in Annexure '12' would show that this office order is absolute and is not a conditional order.

14. Learned counsel for the State, at this stage, submits that the respondents have preferred a Civil Review Application No. 108 of 2021 in LPA No. 1310 of 2017.

15. Learned counsel for the petitioner, however, submits that the Review Application has been filed after 3 years and even prior to filing of the LPA, the consequential office order had already been issued.

In fact, it would appear from Annexure '12' that the order of the learned Co-ordinate Bench was complied with even before the filing of the letters patent appeal by the State of Bihar.



16. In the circumstances, this Court finds that at this stage, the case of the petitioner is covered by the judgment of learned Co-ordinate Bench of this Court in CWJC No. 4506 of 2016 and CWJC No. 3932 of 2016, hence, the impugned order is set-aside.

17. This writ application is allowed. The petitioner shall be reinstated in service like the petitioners in CWJC No. 4506 of 2016 and CWJC No. 3932 of 2016 with all consequential benefits.

(Rajeev Ranjan Prasad, J)

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CAV DATE	
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