

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9677 of 2022

- 1(i) Kiran Kumar, Wife of Late Deo Kumar Singh, Resident of Village- Sirsa Ram Rai, Police Station- Lalganj, District- Vaishali.
- 1(ii) Smita Deo, (Minor) Daughter of Late Deo Kumar Singh, Resident of Village- Sirsa Ram Rai, Police Station- Lalganj, District- Vaishali.
- 1(iii) Richa Deo, (Minor) Daughter of Late Deo Kumar Singh, Resident of Village- Sirsa Ram Rai, Police Station- Lalganj, District- Vaishali.
- 1(iv) Aditya Deo (Minor), Son of Late Deo Kumar Singh, Resident of Village- Sirsa Ram Rai, Police Station- Lalganj, District- Vaishali.

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Primary Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Primary Education, Govt. of Bihar, Patna.
3. The Joint Secretary, Department of Education, Govt. of Bihar, Patna.
4. The District Education Officer, Saran.
5. The District Programme Officer (Establishment), Saran.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Jagdish Prasad Singh, Advocate
For the Respondent/s : Mr. Madanjeet Kumar, GP-20

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 12-09-2023

I.A. No. 1 of 2023

Learned counsel for the petitioners submits that the petitioner has died, hence, the Interlocutory Application No. 1 of 2023 has been filed.

2. There is no opposition to the interlocutory application, hence, it is allowed.

3. The name of the original petitioner in CWJC No. 9677 of 2022 shall be expunged and in his place, the name of substituted legal heirs as per paragraph '2' of the Interlocutory



Application No. 1 of 2023 shall be recorded.

4. This application has been filed seeking the following reliefs:-

I) Certiorari:- For setting aside of office order as contained in Memo No. 2996 dated 03.06.2022 (Annexure-6) and its consequential effects issued under the signature of Respondent District Programme Officer, Establishment, Saran whereby and whereunder petitioner has been brought under Departmental proceed and form 'K' (Charge Sheet) has been served upon the petitioner on the ground that the petitioner succeeded in getting appointment on the basis of training/Certificate obtained from Lord Budha Mission Teachers Training College, Kartahan, Vaishali which institution has not been found suitable for appointment in view of Memo No. 412 dated 24.06.2015.

II) An appropriate order or direction be issued declaring that in view of Memo No. 391(C) dated 18.09.2006 and Order dated 18.07.2013 in SLP No. 26824/2012. Petitioner's selection as Assistant Teacher is not bad and Respondents have no authority to question the selection of petitioner.

III) Any other appropriate writ or direction may be issued which may be applicable in the facts and circumstances of the case."

5. It would transpire from the statements made in the counter affidavit of Respondent No. 4, it would appear that during pendency of the writ application, the service of the petitioner has been terminated vide Memo No. 5329 dated 16.11.2022 (Annexure 'A' to the counter affidavit). Even as the Annexure 'A' to the counter affidavit has not been specifically challenged, if the prayers made in the writ petition are allowed,



as a necessary consequence thereof the order of termination of the original petitioner would not survive. This Court has, therefore, considered Annexure 'A' as well in the light of the judicial pronouncements in the similarly situated cases.

6. Learned counsel for the petitioners submits that this case would be covered by the recent judgment dated 28.08.2023 delivered by the Hon'ble Division Bench of this Court in L.P.A. No. 1254 of 2016 arising out of CWJC No.16580 of 2014 and other analogous matters.

7. It is submitted that the original petitioner also figured in the list of 34,540 Elementary Teachers approved by the Hon'ble Apex Court on the recommendation made by Hon'ble Mr. Justice S.K. Chattopadhyay (Retd.) Committee.

8. Learned counsel submits that the Hon'ble Supreme Court has in its judgment in SLP (C) No. 26824 of 2012 directed inter-alia as under:-

“... We make it clear that none of the persons appointed out of the 34,540 vacancies should be disturbed in any way, but the question of filling up the balance vacancies may be taken into consideration, while disposing of the applications in question.”

9. It is, in view of the aforementioned clarity given by the Hon'ble Supreme Court in its judgment, the Hon'ble Division Bench of this Court has held in L.P.A. No. 1254 of



2016 and other analogous matters that there could be no termination on the basis of a further verification. The views expressed by the Hon'ble Division Bench of this Court may be found in paragraph '16' as under:-

“16. We are of the definite opinion that in the present case where all the party-respondents were appointed as per the directions of the Hon'ble Supreme Court, under the supervision of Justice Chattopadhyay, cannot be terminated on grounds of qualifications not having been properly verified; unless otherwise permitted by the Hon'ble Supreme Court. The party respondents were appointed after their eligibility being settled by Justice Chattopadhyay, appointed by the Hon'ble Supreme Court, to oversee the selection and appointment of teachers to the vacant posts, identified as available, as per the undertaking made by the State before the Hon'ble Supreme Court. Though the verification of credentials and qualifications of the candidates were directed to be done, there could be no such verification at this late stage. As noticed by the learned Single Judge in the impugned judgment the State ought to have been more vigilant when the appointments were carried out.”

10. Learned counsel for the State is present. It is submitted that if the original petitioner is an appointee from the list of 34,540 candidates which was approved by the Hon'ble Supreme Court, then the Hon'ble Division Bench judgment would be applicable in his case as well.

11. Having regard to the submissions noted



hereinabove, in view of the developments in the form of Hon'ble Division Bench judgment in L.P.A. No. 1254 of 2016 and other analogous cases, this Court sets aside the impugned order of termination and directs the respondents to consider and take an appropriate decision, keeping in view the Bihar Litigation Policy, 2011 in the light of the judgment of this Court rendered in L.P.A. No. 1254 of 2016 and other analogous matters and allow similar benefits.

12. Let the entire exercise be completed within a period of three months from the date of receipt/production of a copy of this order.

13. The substituted legal heirs of the original petitioner (since deceased) shall be entitled for the consequential benefits, if any.

14. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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