

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10125 of 2022

Krishnadev Tiwari son of Late Shukeshwar Tiwari, School Name- Jyoti Surya Project Girls High School, Patahi, East Champaran R/O Village Bhataura, Post- D.K. Shikarpur, P.S. Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department Human Resources, Government of Bihar, Patna.
2. The Director, Secondary Education, Human Resources Development Department, Government of Bihar, Patna
3. The Regional Deputy Director of Education, Tirhut Division, East Champaran at Motihari.
4. The District Magistrate, District East Champaran
5. The District Education Officer at Motihari, District East Champaran
6. The Principal, Jyoti Surya Project Girls High School, Patahi District East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Giri, Advocate
For the Respondent/s : Mr. Smt. Shilpa Singh (GA 12)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 15-02-2023 This Court, in **CWJC No.9854 of 2022**

(Vidyanandan Bajpeyee- Vrs. The State of Bihar & Ors.)

vide order dated 16.01.2023, has already held as under :-

“1. In the subject of Sanskrit, it is an admitted position that the qualifications at different level of studies are designated by eight different terms. Thus, a person who has done Graduation Degree is awarded with Shastri Degree. At the level of Post Graduation, he is awarded Acharya Degree. In Urdu, at the level of Graduation, the Faazil Degree is awarded. For having acquired a degree equivalent to B.Ed that is trained degree, in Sanskrit studies a degree of Shiksha Shastri is awarded. Thus, a teacher is said to be trained in Sanskrit studies if he has passed a Shiksha Shastri Degree. Treating the qualification of Acharya as equivalent to Graduate, a person who acquires



B.Ed. Qualification, B.P.Ed. qualification or Shiksha Shastri with Acharya as a subject would be treated as a trained teacher. Thus, for the purpose of considering any teacher as a trained teacher, the essential qualification is as recognized by the N.C.E.T. namely B.Ed, B.P.Ed. or Shiksha Shastri. The **R.T.E. Act 2009** has also recognized such qualifications as qualifications for the purpose of training in education. As per **Section 23** a teacher can be employed only if he is trained. For the rule reads as under :-

“23. Qualifications for appointment and terms and conditions of service of teachers.-

(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorized by the Central Government, by notification, shall be eligible for appointment as a teacher.

(2) Where a State does not have adequate institutions offering coursed or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification.

Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years.

[Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.]

(3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be



prescribed."

2. It appears that an order issued by the Director Education dated 24.11.1986 was made as a basis for claiming that teachers who have done Acharya or Faazil would be also treated as trained teachers and on the basis, certain orders came to be passed by Co-ordinate Bench of this Court, directing the State Government to consider the case of the candidates for granting of Graduate trained pay-scale.

3. Learned counsel for the petitioner claims similar relief.

4. On close scrutiny of the order dated 24.11.1986, this Court finds that the order was passed by the Director to the District Education Officers with a caption heading of the subject of granting Graduate pay-scale to teachers who are trained in Physically Education having Acharya and Faazil degree qualification.

In the said context, considering that they possessed already a qualification of the training in Physical Education viz. B.P.Ed the Director directed that even those who have acquired Acharya or Faazil qualification instead of regular Graduation degree, would be treated as sufficient for the purpose of granting of Graduate trained pay-scale.

5. Thus, the *sine quo-non* for granting Graduate trained pay-scale is that a candidate or a teacher must possess both qualification of being Graduate as well as being trained in Education. The letter or direction of the Director nowhere mentions that a person would be treated as trained even if he has not acquired the qualification of training which is separate from acquiring a Graduate qualification.

6. In view of the aforesaid therefore, it cannot be said that merely because a teacher has acquired qualification of Acharya or Faazil would be treated as equal to another teacher who is a trained Graduate namely a teacher who possess a degree qualification and also possess a qualification of B.P.Ed/ B.Ed or Shiksha Shastri. Therefore, this Court finds that directions cannot be issued to the respondents to treat Sanskrit teachers as trained merely because they have a qualification of Acharya or Faazil respectively. Apart from the said qualification which is



equivalent to Graduation, a teacher must possess a qualification of being trained i.e. Shiksha Shastri or D.El.Ed, B.P.Ed or B.Ed as the case may be required under the **R.T.E. Act 2009**. In the Case of **C.W.J.C. No. 16214 of 2019 (Md. Ataur Rahman & Ors. Vrs. Union of India & Ors.)** and analogous cases as reported in **2023 (1) B.L.J. 176**, this Court has already held that the required qualification of the trained is essential for the purpose of a teacher to teach in the schools and a person who does not possess the training qualifications cannot be allowed to continue.

7. In view thereof, the claim of the petitioner is not made out. The writ petition is devoid of merits and is accordingly dismissed.”

In view of above order dated 16.01.2023 passed in CWJC No.9854 of 2022, this writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

Chn/-
Item No.12

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