IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18495 of 2021

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Manjula Kumari @ Manju Kumari Wife of Sri Shyam Sundar Prasad Srivastava Resident of Village - Bahera Jahidpur, P.S. - Nanpur, District-Sitamarhi.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Secondary Education, Bihar, Patna.
3. The Regional Deputy Director, Secondary Education, Tirhut Commissionery, Muzaffarpur.
4. The District Education Officer, Sitamarhi.
5. The District Programme Officer, Sitamarhi.
6. The Headmaster, Project Girls High School, Bahera, Jahidpur, District Sitamarhi.
7. The Treasury Officer, Sitamarhi.
8. The Accountant General, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate.

For the Respondent/s : Mr. Madhukar Mishra, AC to SC-16.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 10-11-2023

Heard Mr. Subhash Kumar Jha, learned counsel appearing on behalf of the petitioner and Mr. Madhukar Mishra, learned AC to SC-16 for the State.

2. The petitioner has filed the present writ petition for the following reliefs:

(i) For issuance of writ in the appropriate nature of quashing the order dated 26.03.2021 passed by the District Education Officer, Sitamarhi whereby the representation of the petitioner has been disposed

off vide order dated 26.03.2021 holding that the subtraction of amount from the payment of the petitioner is legal without considering that the petitioner was under the criteria of exemption from the Income Tax. Further till date even contributory scheme has not been allowed though the petitioner was appointed w.e.f. 1981 though his services was approved w.e.f. 24.06.2008.

(ii) For further direction to the Respondent authorities to pay admissible pension and payment of subtracted amount.

(iii) And for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner is aggrieved by deduction of Rs. 5,40,971/- which has been deducted from his retirement benefits. He further submits that in place of GPF account a permanent retirement account (PRAN) has been opened, which is applicable only to the Niyojit Teacher. The petitioner had filed a representation on 29.6.2020 (Annexure-7) before the Respondents to reimburse the deducted amount and had also challenged the opening of PRAN Account and subtraction of amount from the total payment in lieu of payment of Income Tax which is not applicable in his case. The petitioner had filed CWJC No. 8743/2020, which was disposed of vide order dated 27.11.2020 (Annexure-9). The respondents in view of the order dated 27.11.2020 passed the order on 26.3.2021, allegedly

without giving an opportunity of personal hearing to the petitioner and no finding in regard to whether the petitioner is exempted from the payment of Income Tax or not and secondly whether the petitioner is entitled for full pension or contributory pension, rather it appears that the concerned Respondents has passed the order dated 26.3.2021, holding that as the approval of appointment of the petitioner has been given w.e.f. 24.6.2008, in view of Resolution dated 31.8.2005, the petitioner is not entitled for full pension rather is entitled for contributory pension. It is further submitted that it appears from the order dated 26.3.2021, that the Respondents authority has also admitted that due to mistake in the name of the petitioner such orders were passed. Learned counsel in these background submitted that due to confusion in the name, the contribution on the part of the employee could not be deducted which is admitted in the impugned order dated 26.03.2021. It is claimed by the petitioner that the petitioner is required to be paid pension as per the old Pension scheme or as per Resolution dated 31.8.2005, as has been done in the case of other employees of the said institution along with whom, petitioner's services were regularized w.e.f. 01.01.1989. It is further submitted that petitioner was exempted from the payment of Income Tax and till last payment the deduction of Income Tax has not been made from the salary of the petitioner. The petitioner had also furnished declaration under Section 89(1) of the Income Tax Act.

4. Learned counsel further submitted that unfortunately, name of the petitioner did not find place in the letter dated 28.04.1993, issued by the State Government under the signature of the Director, Secondary Education , whereby it was agreed that teaching and non-teaching staffs of the concerned school would be paid their salary w.e.f 1989 (Annexure-3). Some of the other aggrieved employees of his school had filed an appeal before the Hon'ble Supreme Court in Civil Appeal No.6626-6675/2001, which was disposed of with a direction to the concerned authority to take final decision with respect to the grievance of the employees. In compliance thereof, the then Director, Secondary Education, Bihar, Patna had issued a letter dated 24.06.2008 (Annexure-4), giving approval of the services of the petitioner with effect from issuance of letter dated 24.06.2008, prospectively, without considering that although the name of the petitioner was sent as non-teaching staff for grant of approval of name of the petitioner, but unfortunately services of the petitioner was not

considered vide Letter No. 353 of 1993, whereby, all teaching and non-teaching staffs of the said school were given affiliation / approval of their services. It is further submitted that admittedly the petitioner has continued on the post of peon from the date of her initial appointment and had retired on 13.04.2020.

5. *Per contra*, learned counsel for the respondents submitted that the main relief prayed for by the petitioner in the instant writ petition pertains to Income Tax. It is submitted that it is improper on the part of the petitioner to invoke the writ jurisdiction as she has remedy under the provisions of Income Tax Act and without exhausting all the available remedies, the instant writ petition is not maintainable and is therefore, liable to be rejected. However, he proceeded to argue on merits by submitting that due to some confusion regarding the name of the petitioner, her retiral dues could not be paid to her. The issues regarding the petitioner's name was resolved by the Director, Secondary Education, Bihar, vide Memo No. 74 dated 07.03.2019 who, on available evidence, has declared that Manjula Kumari and Manju Kumari are the same person and ordered payment of all dues. It is pertinent to note that the petitioner's services were regularized in the year 2008. In **Union of India versus Ilmo Devi, Civil Appeal Nos. 5689-5690 of**

2021, the Hon'ble Apex Court held in paragraph no. 8.7 that, "*Thus*, *as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularization as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.*" In light of the aforementioned decision of the Hon'ble Apex Court, the petitioner is not entitled to claim pension since the year 1989, because her services were regularized in the year 2008. As such, the instant writ petition on this ground is also liable to be rejected because the petitioner has already received the pension to which she is entitled to. He further proceeded to inform that PRAN (Permanent Retirement Account Number) has been allotted to the petitioner. In para 13 of the writ petition, the petitioner has admitted that in CWJC No. 24081 of 2018 filed by her, she had prayed for payment of her salary w.e.f. the year 2008. However, in the instant writ petition, the petitioner has also prayed for similar relief and submitted that the instant writ petition is liable to be rejected on the ground of principle of *res* *judicata.* It is further submitted that the appointment of the petitioner was not approved retrospectively w.e.f. 01.01.1989, as is being claimed by the petitioner and for the said reason, the case of the petitioner is not identical to that of Smt. Shakuntala Kumari, Vijay Kumar and Vina Devi, whose services were approved from 01.01.1989 vide letter No. 356 dated 28.04.1993 of Director, Secondary Education.

6. The District Programme Officer (Establishment), Sitamarhi who is present in the Court submits, on the basis of available records with him, that the school was taken over in the year 1998 and in the year 2008 service of the petitioner was approved and after attaining the age of 60 years, the petitioner had retired in accordance with the provisions of Bihar Service Code and Bihar Pension Rules. He further informs that minimum requirement to receive pension is 10 years service in accordance with the provisions of the Bihar Pension Rules, which provides for qualifying service in Appendix-VI to the Bihar Pension Rules, 1950.

7. Heard the parties.

8. The admitted facts of the case culled out from the pleadings of the respective parties and the information given by the District Programme Officer (Establishment), Sitamarhi

based on records, it would appear that the petitioner had retired after attaining the age of 60 years on 30.04.2020, from the post of peon. Petitioner has served for more than a period of 10 years, which is the minimum period required for pensionable service. The school was taken over by the State Government w.e.f. 01.01.1989 and some of the employees of the said school had preferred writ petition before this Court and the matter was finally decided by the Director, Secondary Education, Bihar with respect to the employees of the school in compliance of the direction of the Apex Court in Civil Appeal No. 6626-6675/ 2001, pursuant to which those employees were given the benefit of pension and were paid the retiral dues. The petitioner has brought on record Memo No. 356 dated 28.04.1993 (Annexure-3), an order passed by the Director, Secondary Education, by which the benefit of pension and other retiral dues have been granted to the employees namely Shakuntala Kumari, Vijay Kumar and Vina Devi.

9. The moot question for determination in the present writ is whether the petitioner who had retired on 30.04.2020, the date on which she attained the age of 60 years, becomes entitled for pension and can be denied the retirement benefits to which she is entitled. Petitioner has been able to

make out her case that similarly situated employees of the school were given benefit of pension w.e.f. 01.01.1989, i.e from the the date of taking over of the school and can such parity be given to her in the facts of the case?

10. Before I proceed to analyse the claim of the petitioner on merits, it would be proper for me to examine whether the case of the petitioner is fit to be rejected on the ground of *res judicata.*

11. The rejection of the claim of the petitioner treating her to be a part time temporary employee in a government run institution and also stating that she cannot claim parity in salary with regular employee of the government as stated in paragraph no. 26, is misconceived. Grounds of rejection of the claims of the petitioner by the respondents, are hinged upon the principles of *res judicata* and *constructive res judicata* and in this regard, reliance has been placed on behalf of the respondent/s, on the law laid down in ***Daryao & Ors. v. The State of Uttar Pradesh & Ors.*** reported in ***AIR 1961 SC 1457*** and ***Workmen of Cochin Port Trust v. Board of Trustees of the Cochin Port Trust & Anr.*** reported in ***(1978) 3 SCC 119***. Earlier, after the matter was remanded by this Court to decide the case of the petitioner afresh, it created, in consequence, a

fresh cause of action. Accordingly, the issue relating to delay and laches has already been discussed in above paragraph. The claim of pension being a continuing cause of action, the present writ petition is maintainable.

12. On perusal of the records, it appears that the Director, Secondary Education, Bihar vide order dated 24.06.2008 contained in Memo No. 478 (Annexure 4), has approved the services of the petitioner from the date of issuance of the order. However, the petitioner has been denied pensionary benefits including pension, taking into account the date of appointment to be 02.01.1981 and date of birth of the petitioner to be 05.04.1960.

13. In the case of one of the employees namely, Veena Kumari, whose name finds mention at serial no. 02, in the letter dated 28.04.1993 (Annexure 3), issued by the Director, Secondary Education, Bihar, it has been found from the certificate issued to her on 05.03.1974 (Annexure 7 to I.A) that, she has passed class VIII and her date of birth is written as 04.11.1951 and date of admission in the school is 15.03.1972 and date of leaving the school is 31.12.1972. If the certificate is to be relied upon, then in that case it shows that she took admission in the school at the age of about 21 years and she

completed her 7 years course in 9 months, which is absurd. Therefore, in conclusion, it appears that the certificate is forged and fabricated.

14. The school was being run by the Managing Committee. The approval of the list of teachers and non-teaching staff of the school by the State Authorities at the time of taking over of the school raises concern about malafides played by them.

15. This Court can only observe that all the State Authorities at the relevant point of time, when the school was taken over in the year 1992, had extended the benefit of regularization to the teachers and non-teaching staff in an illegal manner, without considering their testimonials and favouring some, have prepared the list of the employees for regularization which is apparent from the letter No. 352 dated 28.04.1993 issued by the Director, Secondary Education.

16. Recently, the Hon'ble Supreme Court in the case of ***Raman Kumjar & Ors. vs. Union of India & Ors.*** reported in ***2023 LiveLaw (SC) 520***, has held in parargraph no. 7, 8,10 and 13 as follows:-

> *" 7. In the Constitution Bench judgment of this court passed in Uma Devi (supra), though the Court has held that backdoor entries should not be permitted, it has*

permitted a one-time measure to be conducted for regularization of the services of these employees who had completed the service of more than ten years.

8. Indisputably, the appellants herein have completed service of more than ten years. Even this Court in the case of Ravi Verma and Others v. Union of India and Others (Civil Appeal No(s).2795-2796 of 2018) decided on 13.03.2018 found that the act of regularizing the services of some employees and not regularizing the services of the others is discriminatory and violative of Article 14 of the Constitution of India.

10. We are not inclined to accept the submission on behalf of the respondents. When the Chief Commissioner of Income Tax has himself found that 65 persons were entitled to be regularized, the act of regularizing the services of only 35 employees and not regularizing the services of other employees, including the appellants, is patently discriminatory and violative of Article 14 of the Constitution of India.

13. The services of the appellants are directed to be regularized from the date on which the services of other 35 employees were regularized and the backwages and other consequential benefits etc., to which the appellants would be entitled to, shall be paid to them within a period of six months from today."

(emphasis supplied)

17. The Director, Secondary Education vide letter dated 28.04.1993 had approved from 01.01.1989, the services of the teaching and non-teaching staffs of the school, excluding the name of the petitioner, whose service was approved much later, in the year 2008. Consequently, benefits of regularization has

been accruing to other employees since 01.01.1989 while for the petitioner, it is alleged to have accrued since 2008, which is patently discriminatory and in teeth of the observation made by the Hon'ble Supreme Court, if the petitioner was also working before the effective date 01.01.1989. However, the District Programme Officer (Establishment) has not been able to bring on record even a chit of paper with respect to appointment of any of the employees of the school with respect to their date of appointment, their testimonials and Registers to show that they had been working regularly in the school, which was being run by the Managing Committee.

18. This Court vide order dated 10.10.2023, had specifically directed the District Programme Officer (Establishment), Sitamarhi and the District Education Officer, Sitamarhi to be present before the Court along with the letter of appointment of the petitioner, which was issued by the Managing Committee of the school / governing body, prior to taking over of the school w.e.f. 01.01.1989. The letter of appointment or any alternative document to show engagement of the petitioner was required by this Court to verify the fact stated in paragraph no.14 of the counter affidavit and subsequent supplementary affidavit that the petitioner cannot be given

parity with regular teachers.

19. The fact which is admitted is that after attaining the age of 60 years, the petitioner had retired on 30.04.2020. The petitioner had continued on the post of peon and was not required to pass any examination in accordance with the Rules applicable to the non-teaching staff of the school, like clerk etc.

20. This Court, in absence of evidence, directs the District Programme Officer (Establishment), Sitamarhi, who is present in the Court, to verify the date of birth of the petitioner from the records, as well as, from the register maintained by the Managing Committee. In case, it is found that the authorities who had verified the documents relating to the teaching and non-teaching staff of the school on the date of taking over charge of the school from the management appears to have not acted to regularise any teachers / employees on the basis of available documents/evidence leading to the misappropriation of such magnitude he may place the matter before the Additional Chief Secretary.

21. So far as the petitioner is concerned, in absence of any document relating to the date of birth of the petitioner, merely on presumption, the authorities concerned cannot deny the relief(s) as prayed for in the present writ petition. The

authorities concerned are themselves responsible for illegality which was committed at the time of taking over of the school. The pension and pensionary benefits cannot be denied and the same is required to be calculated taking into account the fact that the petitioner had retired on 30.04.2020, the date on which she had attained the age of 60 years.

22. The provision of Appendix 5 appended to Rule 5 of the Bihar Pension Rules, 1950, prescribes for the qualifying period for consideration of benefit or raising of such age from 16 years to 18 years makes no difference to the age of the retirement prescribed under Rule 73 of the Bihar Service Code, 1952.

23. The issue relating to the qualifying service has already been decided by the Hon'ble Apex court in case of ***Gopal Prasad v. Bihar School Examination Board & Ors.*** reported in ***(2020) 18 SCC 255.*** The observation made by the Hon'ble Supreme Court, particularly, paragraphs no. 48, 49 and 67 are relevant to decide the core issue of this case. The Apex Court has considered in detail the provision of Bihar Service Code, 1952, as well as, Bihar Pension Rules, 1950 in detail. To appreciate the facts of the present case and issue involved, it is apt to firstly take note of paragraphs no. 28, 31, 32, 33, 44, 48,

49, 55, 56 and 67 which are reproduced hereinafter:

> ***"28. The terms and conditions of service of employees of the Bihar School Examination Board are governed by the Bihar Service Code. Rule 73 of the Bihar Service Code, inter alia, provides that "the date of compulsory retirement of a government servant is the date on which he attains the age of 58 years. He may be retained in service after the date of compulsory retirement with the sanction of the State Government on public grounds, which must be recorded in writing".***
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> ***31. <u>On a bare reading of the said resolution, it is patently clear that employees who had been appointed before attaining the age of 18 years, were to be deemed to have attained the age of 18 years on the date of their appointment and that they would superannuate on completion of 60 years of age if they were Category 4 employees and on completion of 58 years of age in case they were Category 3 employees. The age of 58 years for Category 3 employees was, later, during the tenure of service of the appellant, increased to 60 years.</u>*** *(Emphasis Supplied)*
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> ***32. <u>The resolution may not have perfectly been worded. In my view, the resolution was a beneficial one in the interest of those employees who would otherwise have been deprived of pensionary benefits for the period of service rendered by them before attaining the age of 18 years.</u> Such employees were to be deemed to be 18 years on the date of their appointment, so that they were not deprived of pensionary benefits for part of their service period, but were to retire on attaining the age of retirement as prescribed in Rule 73 of the Bihar Service Code. The resolution might also have been necessitated by reason of irregular appointments after the Circular dated 15-1-1998 of persons who had not attained 18 years of age, to put all disputes with regard to the legality of their appointment to rest. It does not appear that the resolution was intended to retire employees who had joined service before attaining the age of 18 years, before completion of their actual age of retirement, as per the Rules.*** *(Emphasis Supplied)*
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> ***33. If it were the intent of the resolution that employees appointed before attaining the age of 18 years, would retire before attaining the actual age of retirement, as per Rule 73 of the Bihar Service Code, the language and/or wording of the resolution would have been different. The resolution would then have expressly stated that the date of birth of employees,***

appointed before attaining the age of 18 years, would, for the purpose of retirement, be deemed to be the date on which the employee concerned would have been born, if he/she were to complete 18 years of age on the date of appointment. The Resolution would clearly have stated that such employees would retire on attaining the age of retirement prescribed in the Bihar Service Code on the basis of their deemed date of birth, notwithstanding the fact that they may not have attained the age of retirement as per the Bihar Service Code as per their date of birth as recorded by the Bihar School Examination Board.

44. The mere fact that an employee may have been a minor at the time of his initial appointment is inconsequential in the absence of any law at the material time of his appointment, prohibiting appointment of 15/16 year old minors. The appellant who was 15½ years old may have been a minor, but certainly not a toddler. It is absurd that any rational employer, far less a statutory body, would appoint a toddler. The hypothesis of appointment of a toddler is far-fetched and unrealistic. The apprehension of claims in future to appointment from persons less than 18 years of age is also baseless in view of the Circular dated 15-1-1998 which fixes 18 years as the minimum age of retirement. The circular would govern subsequent appointments.

48. <u>In my view, the interpretation of the Full Bench of Rule 73 of the Bihar Service Code in Ragjawa Narayan Mishra [Ragjawa Narayan Mishra v. Bihar Rajya Khadi Gramoudyog Board, 2005 SCC OnLine Pat 978 : (2006) 1 PLJR 410] is misconceived and erroneous. The counsel appearing on behalf of the appellant has rightly argued that there is no rule which prescribes the length of service as a criteria for superannuation. Neither Rule 73 of the Bihar Service Code, nor Rule 57 of the Bihar Pension Rules, 1950 prescribed any limit to the length of service.</u>*(Emphasis Supplied)*

49. The Full Bench [Ragjawa Narayan Mishra v. Bihar Rajya Khadi Gramoudyog Board, 2005 SCC OnLine Pat 978 : (2006) 1 PLJR 410] fell in error in proceeding on the basis of the length of service, when Rule 73 of the Bihar Service Code prescribes a specific age of superannuation. As argued on behalf of the

appellant, Rule 73 of the Bihar Service Code prescribes an age of retirement. The said Rule does not make length of service a criteria for retirement.

55. Thus, if the age of qualifying service for pension is 18 years, the length of service for computation of pensionary benefits would have to be computed from the date of attainment of 18 years of age. However, if the prescribed age of retirement is completion of 60 years, an employee cannot be forced to retire before attaining that age except on grounds provided in Service Rules. For example, an employee may prematurely be retired by way of disciplinary action, if the rules so provide.*(Emphasis Supplied)*

56. When the age of retirement is governed by express rules, which do not prescribe length of service as a criteria of retirement, but provide for retirement upon attainment of age, an employee cannot be made to retire before attaining that age of retirement, only because he/she has served for a certain length of time, by a convoluted process of logical reasoning. My judicial conscience, also does not permit me to uphold the judgment under appeal, only because the High Court has, for a while, followed the Full Bench decision of that Court which has held the field for a while. The Full Bench decision was, in my opinion, erroneous. This Court has time and again reversed its own decisions including those of Constitutional Benches, which have held the field for decades. To cite an example, the Constitution Bench judgment of this Court in Atiabari Tea Co. Ltd. v. State of Assam [Atiabari Tea Co. Ltd. v. State of Assam, AIR 1961 SC 232] which held the field for almost half century was overruled by a judgment of nine-Judge Bench judgment in Jindal Stainless Ltd. v. State of Haryana [Jindal Stainless Ltd. v. State of Haryana, (2017) 12 SCC 1] . I see no reason why the judgment and order impugned [Gopal Prasad v. Bihar School Examination Board, 2012 SCC OnLine Pat 1735] should not be set aside.

67. I am of the view that the appeal should be allowed and the judgment and order [Gopal Prasad v. Bihar School Examination Board, 2012 SCC OnLine Pat 1735] of the Division Bench and the Single Bench [Gopal Prasad v. Bihar School Examination Board, 2012 SCC OnLine Pat 1734] be set aside. The appellant is entitled to a declaration that the appellant was

entitled to continue in service till 18-11-2014, being the date on which he completed 60 years of age, as per his service records, and shall be entitled to all consequential benefits including arrears of pay, if any, pensionary benefits, etc." *(Emphasis Supplied)*

24. The matter was referred to a larger Bench of the Hon'ble Apex Court. The larger Bench did not interfere with the Division Bench nor formed any opinion to differ from judgment passed by the Division Bench.

25. The conclusion derived by the concerned authority for rejection of the claim of the petitioner that petitioner cannot be given benefit of pension w.e.f. 1989 by calculating her initial date of appointment to be year 2008, the date on which the petitioner was taken into regular establishment is also misconceived in view of the law decided by the Apex Court in case of **Gopal Prasad (supra)** and recently, by the Division Bench of this Court in LPA No.198 of 2016 (***The Registrar General, Patna High Court Versus Ram Vyas Dubey & Ors.***).

26. For the purposes of calculating pension notionally, it has to be taken into from the date of initial entry into the service or from the date similarly situated employees have been granted, even he had joined as a daily wager.

27. In light of the above observation and admitted

fact, the office order contained in Memo No. 478 dated 24.06.2008 passed by the Director, Secondary Education, Bihar is hereby set aside and quashed.

28. The pension of the petitioner is required to be fixed forthwith and all the retiral dues is directed to be paid to the petitioner without any delay.

29. The above exercise must be completed by the District Programme Officer (Establishment), Sitamarhi who is present in the Court within a period of two months as informed by him. In case, he finds that irregularities were committed at the time of handing over the charge by the Managing Committee and taking over by the concerned State authorities, appropriate legal action is directed to be taken against the concerned authorities. He is required to inform the Additional Chief Secretary, Education Department and the Collector of the District.

30. The menace of illegal and backdoor appointments in public employment has plagued the State. It has led to violation of Article 14 and 16 with impunity at the hands of the corrupted officials who connive, against the established Rules and Laws, to engage / employ numerous persons throughout the length and breadth of the State by backdoor

methods. Those who can pull strings in the power corridors at the higher and lower levels manage to get the cake of public employment by trampling over the rights of others. A huge illegal employment market has developed in different parts of the State and rampant corruption has afflicted the whole system.

31. Law with regard to backdoor entry is well settled in the case of ***State of U.P. & Ors. Vs. U. P. State Law Officers Association & Ors., AIR 1994 SC 1654***, wherein the Hon'ble Apex Court has observed as under:

> "The method of appointment is indeed not calculated to ensure that the meritorious alone will always be appointed or that the appointments made will not be on considerations other than merit. In the absence of guidelines, the appointments may be made purely on personal or political considerations, and be arbitrary. This being so those who come to be appointed by such arbitrary procedure can hardly complain if the termination of their appointment is equally arbitrary. Those who come by the back door have to go by the same door... From the inception some engagements and contracts may be the product of the operation of the spoils system. There need be no legal anxiety to save them."

32. The Additional Chief Secretary, Education Department may take appropriate action in this regard in accordance with law. He must satisfy himself as to whether on the date of handing over of the charge of the school by the Managing Committee in the year 1992, backdoor entry has been made and whether the guidelines for taking over of the school has been violated by the authorities concerned who were handed over the list of teaching and non-teaching staffs of the school.

33. If any adverse order is passed against the petitioner, she is entitled for opportunity of hearing either in person or through her representative.

34. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	30.11.2023
Transmission Date	N.A.