

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.941 of 2019

In
Civil Writ Jurisdiction Case No.10239 of 2014

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Surendra Prasad Son of Sri Sadhu Prasad resident of Mohalla-Dumduma, P.S-
Daudpur District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources, Government of Bihar, Patna
2. The Director, Primary Education, Bihar, Patna
3. The Regional Deputy Director of Education, Saran Division, Saran
4. The District Education Officer, Saran
5. The District Programme Officer, Primary Education, Saran
6. The Block Education Extension Officer, Garakha, Saran

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Mohan, Advocate
For the Respondent/s : Mr. Ashutosh Ranjan Pandey, AAG-15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 24-06-2023

1. Heard learned counsel for the writ petitioner-appellant and learned counsel for the respondents.

2. The instant appeal has been preferred against the judgment dated 10.7.2018 passed in CWJC no.10239 of 2014. The appellant has also filed an application (I.A. no.1 of 2020) for condonation of delay of 394 days in filing of the instant appeal.

I.A. no.1 of 2020



3. The instant application has been filed by the appellant praying for condonation of delay of 394 days in filing of the appeal against the judgment dated 10.7.2018 of the learned Single Judge dismissing the writ application.

4. Having heard learned counsel for the parties and having perused the contents of the application filed, the Court is satisfied that the appellant has made out a case for condoning the delay in filing of the instant appeal.

5. The delay is condoned.

6. I.A. no.1 of 2020 is allowed.

L.P.A. no.941 of 2019

7. The facts relevant for the instant appeal are that pursuant to Advertisement no.210 of 2010 published by the Bihar Staff Selection Commission, Patna for selection of Assistant Teachers in Primary Schools, the appellant made an application and was appointed as an Assistant Teacher. He was posted in a Middle School in the district of Saran on 16.12.2012 and started working as an Assistant Teacher.

8. According to the case of the appellant the B.Ed. degree was obtained by him from an institution which was recognized by the Government of Uttar Pradesh. He obtained his degree for the examination conducted in the year 1993 from



the 'Rashtriya Patrachar Sansthan, Kanpur'. It further transpires from the record of the writ application that Bachelor of Education (B.Ed.) degree given by the 'Rashtriya Patrachar Sansthan, Kanpur' is not recognized by the State Government for the purpose of appointment as teacher in schools and as such, by order contained in Memo no.230 dated 8.2.2012, the appointment of the appellant as an Assistant Teacher in the Middle School was set aside with immediate effect and the same was communicated to the appellant by order contained in Memo no.4359 dated 29.12.2012. The appellant challenged the order/communication dated 29.12.2012 in the writ application which was dismissed by the judgment impugned dated 10.7.2018.

9. It may be stated here that a copy of the Advertisement no.210/2010 was brought on record as Annexure-1 to the writ application. Clause (5) of the said advertisement provides for the educational qualification required by an applicant. Clause 5(ii) of the advertisement provides that prior to 1995, the applicant should have obtained a two year B.Ed. degree from an institution recognized by the State and after 1995, a two year Teacher training diploma or B.Ed. from an institution recognized by the National Council for



Teacher Education ('NCTE' in short). The case of the appellant is that the institution from which he obtained the B.Ed. degree was prior to coming of the NCTE Act and the said degree was from an institution recognized by the Government of Uttar Pradesh. As such, the learned Single Judge erred in not allowing the case of the appellant.

10. Having heard learned counsel for the parties and having perused the material on record, it transpires that the order impugned in the writ application categorically states that the institution from which the appellant has obtained his two years B.Ed. degree ie from 'Rashtriya Patrachar Sansthan, Kanpur' is not recognized by the State Government for the purpose of appointment as a teacher in school. Even as per Clause 5(ii) of the Advertisement no.210/2010, for those applicants who obtained their B.Ed. degree prior to 1995, it was required that the said degree of B.Ed. should be recognized by the State Government. The order impugned clearly shows that the said condition is not satisfied by the degree obtained by the appellant.

11. Learned Single Judge while considering the case of the appellant has taken note of the fact that selection of teachers in response to the aforesaid Advertisement no.210/2010



was under consideration by the Division Bench of this Court in LPA no.1712 of 2012 which was decided on 28.11.2017. The Division Bench held therein that the appointment of 34540 Assistant Teachers was subject to verification of the academic and training certificates and on verification, if the certificates are not found proper and on that basis order of termination has been passed, such decision does not warrant any interference.

12. Taking note of the said judgment as also the ratio of the judgment of the Hon’ble Supreme Court in Canara Bank vs. V.K.Awasthy [(2005)6 SCC 321], the learned Single Judge not finding any merit in the writ petition dismissed the same.

13. In view of the facts stated herein above, this Court finds no illegality in the order of the learned Single Judge, no merit in the instant appeal and as such, the appeal is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	
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