

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19458 of 2016

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1. Neelam Kumari, daughter of Panchanand Sharma, wife of Om Prakash Mishra, Incharge teacher, Government Upgraded Middle School, Amethiya, Yogapatti, District-West Champaran.
 2. Raj Kishor Singh, son of Durga Singh, Assistant teacher, Government Upgraded Middle School, Banchahari, Bagaha, District-West Champaran.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Patna-1.
2. The Principal Secretary, Primary Education, Patna-1.
3. The Principal Secretary, Finance, Government of Bihar, Patna-1.
4. The Bihar School Examination Board thru its Secretary, Patna-1.
5. The Collector, West Champaran.
6. The District Education Officer, West Champaran, Bettiah.
7. The District Program Officer, West Champaran, Bettiah.
8. The Block Education Officers, Blocks- Narkatiaganj and Bagaha, District-West Champaran.
9. The Principal, Government High and Middle Schools, Langadi, Narkatiaganj, District- West Champaran.
10. The Principal, Government High and Middle Schools, Banchahari, Bagaha, Districts- West Champaran.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Sunil Kumar Singh, Advocate
For the State	:	Mr. Madhaw Pd. Yadav, GP-23
		Mr. Arvind Kumar, AC to GP-23
For the BSEB	:	Mr. Gyan Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 18-09-2023

I.A. No. 64 of 2018

This application has been filed seeking to amend the writ application for quashing the order contained in Memo No. 1830 dated 10.06.2017 passed by the District Education Officer, West Champaran, Bettiah whereby and whereunder the appointments of the petitioners as Assistant Teachers have been



cancelled. A copy of the impugned order is Annexure 'P/5' to the interlocutory application.

2. There is no opposition to this I.A. No. 64 of 2018 being made part and parcel of the writ application. It is accordingly allowed. The writ application shall stand amended accordingly.

3. The petitioners in the present case are seeking to quash the termination order dated 07.08.2015 (Annexure 'P/3') passed by the District Program Officer (Respondent no. 7) without asking any show cause from them. The petitioners also pray for adequate compensation for illegal exercise of power by the respondent authorities, as well as interest for the delayed payment to the petitioners.

4. Learned counsel for the petitioners submits that during pendency of the writ application, the issue with regard to termination of the teachers who were appointed under the 34,540 vacancies of trained teachers from the list which was approved by the Hon'ble Apex Court in Contempt Application Civil No. 297 of 2007 has been resolved.

5. 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.

6. It is submitted that these petitioners 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.

7. Learned counsel submits that the Hon'ble Supreme Court has in it's 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.”

8. It is, in view of the aforementioned clarity given by the Hon'ble Supreme Court in it's 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.”

9. Learned counsel for the petitioners submits that this case would be covered by the judgment of the Hon'ble Division Bench of this Court in LPA No. 1309 of 2017 (The State of Bihar and Others versus Naveen Prasad Singh and Others) and LPA No. 1310 of 2017 (The State of Bihar and Others versus Yogendra Kumar Rai) reported in **2019 (1) PLJR 43** wherein it has been held that the college in question from where the petitioners had obtained their Teacher Training Certificate had the recognition of the State Government for the Session 1983-85 to 1986-88.

10. Learned counsel for the State and learned counsel for the Bihar School Examination Board are present. It is submitted that if the petitioners are appointees 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 their 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 orders dated 07.08.2015 (Annexure 'P/3' to the writ application) and 10.06.2017 contained in Memo No. 1830 (Annexure 'P/5' to the I.A. No. 64 of 2018) and directs the respondents to consider the case of the petitioners 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 as also in LPA No. 1309 and 1310 of 2017 and grant similar benefits to the petitioners as have been given to the other terminated teachers of the said list.

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

(Rajeev Ranjan Prasad, J)

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