

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.190 of 2021**

**In**  
**CIVIL REVIEW No.205 of 2019**

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Priya Ranjan Son of Shatrudhan Prasad Sinha @ Shatrighna Prasad Sinha  
Resident of village and P.S. - Pankdarak, District- Patna.

... .. Appellant

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department,  
Government of Bihar at Patna.
3. The Director, Secondary Education, Bihar, Patna.
4. The District Magistrate, Patna.
5. The Regional Deputy Director of Education, Patna.

... .. Respondents

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**Appearance :**

|                     |   |                                                            |
|---------------------|---|------------------------------------------------------------|
| For the Appellant   | : | Mr. Siddharth Harsh, Advocate<br>Mr. Rahul Singh, Advocate |
| For the Respondents | : | AC to AAG-15                                               |

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**CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI**  
**and**  
**HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)**

**Date : 26-09-2024**

The present appeal has been filed under Clause 10, Appendix-E of the Letters Patent Appeal of the Patna High Court Rules against the order dated 04.03.2020 passed by the learned Single Judge in Civil Review No. 205 of 2019, whereby the learned Single Judge has dismissed the review application filed by the appellant. The appellant has also challenged the order dated 14.09.2018 passed by the learned Single Judge in CWJC No.



17064 of 2011, whereby the learned Single Judge has dismissed the writ application filed by the appellant.

2. Heard Mr. Siddharth Harsh, learned counsel for the appellant and learned Assistant Counsel to AAG-15 for the respondents.

3. The brief facts leading to filing of the present appeal are as under: -

3.1. The present appellant/original writ petitioner preferred CWJC No. 17064 of 2011, wherein the petitioner has stated that he was appointed on vacant post on 27.04.1987 as Assistant Teacher (Biology) in Chaudhary Ram Prasad Sharma Project Girls High School, Pandarak, Patna, by the Managing Committee of the aforesaid school. He was possessing the degree of B.Sc. and thereafter he acquired Senior Teachers Training Degree from the reputed Sister Nivedita College, Calcutta, in 1993, which was recognized by the employer school as well. It has further been stated that the aforesaid school was one of such girls high schools, which were selected under the Establishment Scheme of Project High Schools in the year 1984-85. It is stated that the Government, for the purposes of selecting such schools and their eligible staffs, appointed a three-men committee on 23.02.1985. The said Committee submitted its report and



recommended the names of teaching/non-teaching staffs for selection in Government service in which the name of the petitioner was included. Thereafter, the concerned Department of the Government of Bihar issued guidelines to the Director, Secondary Education, with regard to appointment of teachers of such schools which were established under public support and were selected under the project scheme of 1984-85 in Government service and payment of their salary vide letter No. 142 dated 04.02.1989.

3.2. The petitioner has also stated that Project High Schools Teachers Association preferred writ application before this Court and the matter travelled up to the Hon'ble Supreme Court. The Hon'ble Supreme Court vide order dated 03.01.2006 directed the State Government to constitute another three-men committee. Accordingly, the Government constituted the Committee which issued certain norms for its decision. The detailed eligibility criteria for appointment as Government Teacher were suggested. It is the case of the petitioner that he fulfilled all eligibility criteria fixed by the subsequent three-men committee.

3.3. It is the grievance of the petitioner that the three-men committee submitted its report dated 12.02.2007, wherein the school in which the petitioner is working found place.



However, the case of the petitioner was rejected with a remark that his B.Ed. Degree is not recognized. Petitioner, therefore, challenged the said decision by filing the proceeding before the Director, Secondary Education. The claim of the petitioner was rejected by the said authority vide office order dated 05.04.2010 on the ground that the petitioner being untrained and the degree of Teachers Training produced by the petitioner being unrecognized, his case cannot be considered. The petitioner preferred appeal before the Principal Secretary, Human Resources Development Department, Patna. The said authority also rejected the appeal preferred by the petitioner vide order dated 04.05.2011.

3.4. The petitioner, therefore, filed the captioned writ application and challenged the aforesaid orders passed by the concerned authorities.

3.5. The learned Single Judge rejected the writ application filed by the petitioner vide order dated 14.09.2018. Thereafter, the same learned Single Judge passed an order dated 19.11.2018 in CWJC No.7131 of 2014 in the case of similarly situated person. Petitioner, therefore, filed Civil Review No.205 of 2019. However, the learned Single Judge vide impugned order dated 04.03.2020 dismissed the review application and, therefore,



the petitioner has preferred the present appeal challenging the aforesaid orders passed by the learned Single Judge.

4. Learned counsel for the appellant/original petitioner has mainly submitted that the petitioner is entitled to get the benefit as prayed for, as he was fulfilling all the requisite criteria framed by the three-men committee, despite which his claim was rejected on the wrong premise of the petitioner being untrained and the degree of Teachers Training produced by the petitioner being unrecognized. At this stage, it is pointed out by the learned counsel from the record and more particularly page 74 of the compilation that the petitioner obtained the Senior Teachers Training Degree from Sister Nivedita College, which has been recognized and, therefore, the stand taken by the respondent authorities is untenable in the eye of law. At this stage, learned counsel has placed reliance upon the decision rendered by the Full Bench of this Court in the case of *Ashok Kumar Vs. The State of Bihar and others and other analogous matters*, reported in **2000(1) PLJR 287 [F.B.]**. Learned counsel has more particularly referred paragraph 32 of the said decision to submit that the case of the petitioner is covered by the aforesaid observations made by the Full Bench of this Court.



4.1. Learned counsel for the appellant/original petitioner further submitted that the present case is squarely covered by the decision rendered by the Hon'ble Supreme Court on 17.11.2020 in the case of ***Bhagirathi Prasad Dey vs. State of Jharkhand & Ors. (Civil Appeal No. 3693 of 2020)***. Learned counsel for the appellant/original petitioner, therefore, urged that the present appeal be allowed and the impugned orders passed by the learned Single Judge be quashed and set aside and thereby respondents be directed to give all the benefits to the petitioner as prayed for in the writ application.

5. On the other hand, learned counsel for the respondent State has opposed the present appeal. At the outset, it has been submitted that no error has been committed by the learned Single Judge while rejecting the claim of the petitioner. Learned counsel for the respondent State has referred counter affidavit, supplementary counter affidavits filed on behalf of the respondent No.3. Learned counsel for the respondents thereafter submitted that the Training Degree obtained by the petitioner from Sister Nivedita College, Calcutta, is not a valid degree and the said college was not recognized by the State Government of Bihar. The said institution has been shown affiliated in All India Education Society, which is a registered society. The respondent Government



deputed the officers for verification of the certificate issued by the said institution in favour of the petitioner and during the course of verification, it was found that the said institution was not recognized by the competent authority. It is further submitted that prior to coming into force of NCTE Act or after enforcement of the said Act, the Training Degree of Sister Nivedita College, Calcutta, has not been recognized by any competent authority. At this stage, it is also submitted that Government Order dated 04.02.1989 came to be issued wherein it has been provided that the services of the untrained teachers shall not be approved and the relaxation of training qualification has been allowed to ladies and SC/ST category teachers with the condition that they shall obtain the training degree within three years. Thus, as per the norms decided for approval of the services, service of the petitioner cannot be approved. Thus, the claim of the petitioner was rightly rejected by the concerned respondent authorities as well as by the learned Single Judge. Learned counsel for the respondents, therefore, urged that the present appeal be dismissed.

6. We have considered the submissions canvassed by the learned Advocates and also perused the materials placed on record. From the record, it would emerge that the petitioner was initially appointed on the vacant post on 27.04.1987 as Assistant



Teacher (Biology) in Chaudhary Ram Prasad Sharma Project Girls High School, Pandarak, Patna, by the Managing Committee of the said school. It is not in dispute that the petitioner was possessing the degree of B.Sc. and thereafter he has acquired Senior Teachers Training Degree from Sister Nivedita College, Calcutta, in 1993. It is also revealed from the record that Chaudhary Ram Prasad Sharma Project Girls High School, Pandarak, Patna, was selected under the Establishment Scheme of Project High Schools in the year 1984-85 and the first three-men committee appointed by the Government recommended the names of the teaching and non-teaching staffs for selection in Government Service in which the name of the petitioner was included. It further transpires that thereafter the Project High School Teachers Association preferred writ application before this Court and the said matter travelled up to the Hon'ble Supreme Court. The Hon'ble Supreme Court vide order dated 03.01.2006 passed in the case of *State of Bihar and Others vs. Project Uchcha Vidya, Sikshak Sangh and others*, reported in (2006) 2 SCC 454, directed the State Government to constitute another three-men committee which the State Government constituted. The said committee issued certain norms for its decision and eligibility criteria for appointment of the Government Teachers were prescribed. However, the said



Committee rejected the claim of the petitioner. It appears that mainly two grounds were assigned by the authorities for rejecting the claim, i.e., the petitioner being untrained and that the Teachers Training Degree produced by the petitioner was unrecognized. Now, it is not in dispute that the petitioner obtained Senior Teachers Training Degree from Sister Nivedita College, Calcutta, in the year 1993.

6.1. At this stage, we would like to refer the order dated 17.11.2020 passed by the Hon'ble Supreme Court in the case of ***Bhagirathi Prasad Dey*** (supra). The Hon'ble Supreme Court has observed in paragraphs 3 to 9 as under: -

*“3. On 23.05.1984, the appellant was appointed as Assistant Teacher in the Project Girls High School, Kharsawan by the Managing Committee of the School. In 1993, the appellant was issued a Certificate by Sister Nivedita College, Kolkata (‘the College’, for short) certifying that the appellant had completed the course of Senior Teachers’ Training and secured Second Class in the Examination held on 22.08.1993.*

*4. Similar such Certificates were subject matter of consideration by different Benches of the High Court and one may divide those cases in two categories:-*

*I) the cases where the Certificates were issued by the College before the National Council for Teacher Education Act, 1993 (“NCTE Act” for short) came into effect on 01.07.1995; and*

*II) the cases where the Certificates were issued after the NCTE Act had come into effect.*

*5. Insofar as the first category of cases are concerned, some of the decisions rendered by the High Court were as under:-*



*A) While dealing with Writ Petition (S) No.5412 of 2005 vide order dated 18.05.2006 Single Judge of the High Court made following observations:*

*“1. ... Further prayer has been made by the petitioner to declare that the provisions of National Council for Teacher Education Act, 1993 (hereinafter to be referred as the ‘N.C.T.E. Act’) which came into effect since 1st July, 1995 are prospective and shall have no effect or abrogation to the accrued right of obtaining decree or diploma.*

*... ..*

*9. It has been held by the Court that the NCTE Act, 1993 came into force since 1st July 1995 and after six months thereafter i.e. after 1st January, 1996 nobody, offering a course or training in teachers education, can run the institute without prior recognition by the National Council for Teachers Education. The petitioner having passed the examination in the year 1992 itself, the question of recognition of Dr. B.C. Roy College of Education, Calcutta, by the National Council of Teachers Education at the relevant point of time does not arise. The Director, Primary Education, Jharkhand, Ranchi, has failed to appreciate the aforesaid facts and simply giving reference to the High Court’s decision, rendered in the case of Dilip Kumar Gupta and Ors. (supra), cancelled the provisional approval, as was given by the District Superintendent of Education, Singhbhum West, Chaibasa.”*

*The aforesaid decision was affirmed in LPA No.400 of 2006 by the Division Bench of the High Court vide order dated 24.11.2006, which made following observations:*



*“Further, it is noticed, as correctly pointed out by Mrs. I. Sen Choudhary, learned counsel appearing for the appellants, National Council for Teachers Education Act came to be introduced on 1st July, 1995. It is true, as strenuously contended by Mrs. Sen Choudhary, counsel for the appellants, that the Division Bench made an observation entertaining doubts with regard to the genuineness of the Institution granting teachers' training certificate. But, however, it is correctly pointed out by the learned counsel of the respondent that that portion has been expunged by the Supreme Court vide order dated 3.3.2006, holding that the Division Bench could not have entertained those doubts in the absence of anything to show that the other parties were heard on the relevant question. As such those observations cannot be made use of by the authorities for passing the order impugned in the writ petition. So, in our view, the direction given by the learned Single Judge, directing the authority to pay the salary of the petitioner/respondent, is perfectly valid and justified.”*

*The matter was carried further before this Court. However, Special Leave Petition (Civil) CC No.4396/2007 was dismissed by this Court vide order dated 14.05.2007.*

*B) Various orders passed by other Single Judges of the High Court took the similar view and by way of example, we may cite two such orders where following directions were issued:*

*i) Order dated 13.09.2010 in Writ Petition No.393 of 2010:*

*“7. The Committee on its formation rejected the claim of the petitioner, as the petitioner had obtained degree in training from Sister Nivedita College, Kolkata, which*



*was not a recognized college, but the Committee failed to consider that the N.C.T.E. Act came into force w.e.f. 1.7.1995, whereas the petitioner had obtained B.Ed. (training) degree from the said Institute in the year 1989 and under this situation, this Court in the case of Kalpana Lodhiya (supra) has been pleased to hold that the training degree obtained from Sister Nivedita College, Kolkata prior to 1995 must be recognized as valid training degree, as N.C.T.E. Act, which was promulgated in the year 1993, came into force w.e.f. 1.7.1985. Thus, the order, under which Three Members Committee did not find the petitioner to be eligible for regularization, is hereby set aside.”*

*ii) Order dated 15.09.2011 in Writ Petition (S) No.5568 of 2009:*

*“6. The reasons given by the Three Member Committee that the petitioner has not cleared his teachers training certificate examination is incorrect mainly for the reason that looking to Annexure-15 to the supplementary affidavit filed by the petitioner, this certificate was already given to the School authorities by the petitioner and they have to submit to the Committee. The supplementary affidavit filed by the petitioner is dated 7th July, 2011. In view thereof or otherwise also, looking to the annexures annexed by the petitioner in this petition and subsequently affidavit before this Court in this matter, it appears that the petitioner has cleared his teachers training certificate examination on 16th March, 1994 and as this certificate examination has been cleared prior to enforcement of the Act of 1993, his case is alike to other writ petitions of the aforesaid decided cases.*



*7. As a cumulative effective of the aforesaid facts, reasons and judicial pronouncements, I hereby quash and set aside the report given by the Three-Member Committee which is at Annexure-B to the counter affidavit filed by respondent No.2 to the extent to which it affects the present petitioner and the reasons given in the said report for the present petitioner is dehors to law for the reasons stated herein above and I, hereby direct the respondents that services of the petitioner may be recognized and necessary order may be passed to that effect and the petitioner will be entitled to all the consequential benefits including salary.”*

*6. Writ Petition (S) No.2005 of 2013 filed by the appellant came to be allowed by the Single Judge of the High Court by order dated 30.07.2013. The factual background leading to the filing of the petition was stated as under:-*

*“In the Writ Petition, the petitioner has prayed for a direction on the respondents to take decision regarding approval/recognition of the services of the petitioner as Assistant Teacher in Project Girls High School, Kharsawan, as has been done in the cases of other similarly situated persons. The petitioner has also prayed for a direction on the respondents to pay salary and other consequential benefits to the petitioner from 1.1.1989 like other similarly situated persons.*

*It has been stated that the petitioner was appointed as Assistant Teacher by the Managing Committee in the said school on 6.1.1984. The petitioner subsequently completed teachers training from Sister Nivedita College at Kolkata in 1993.*

*In the year 1984-85, the Government had decided to take over 300 Project Girls’ High Schools. The petitioner’s School was also taken over in 1985.*



*For the purpose of regularization/approval of the services of the teachers and non-teaching staff of those Schools, Three Men Committee was constituted. The Three Men Committee scrutinized the services of the teachers of the school for the purpose of approval, but the petitioner's service was not approved, for the reason that the petitioner got teachers training from the college, which was not recognized under the provisions of National Council for Teachers Education Act, 1993 ('NCTE Act, 1993', for short).*

*Learned counsel for the petitioner submitted that the petitioner got his teachers training certificate in 1993, whereas NCTE Act, 1993 came into force from July, 1995.*

*Learned counsel for the petitioner further submitted that admittedly NCTE Act was not in existence when the petitioner had got teachers training from Sister Nivedita College, Kolkata and there was no defect in his training certificate. She further submitted that the petitioner was duly appointed by the Managing Committee and he has all eligibility and qualification for being appointed as Assistant Teacher in the High School. Denial of recommendation for approval of Three Men Committee is, therefore, arbitrary and discriminatory."*

*Relying on the long line of decisions, some of which have been adverted to earlier, the Single Judge allowed the petition with following observations:-*

*"Considering the said submissions and the facts and circumstances, this writ petition as well as I.A.No. 4107 of 2013 are disposed of in the light of the order dated 15.9.2011 passed in Om Prakash Gope<sup>2</sup> quashing the refusal of petitioner's recommendation by Three Men Committee (Annexure-3) and directing the respondent No.2, who is said to be the competent authority, to issue appropriate order recognizing the services of the*



*petitioner as Assistant Teacher in Project Girls High School, Kharsawan and pay all consequential benefits including arrears of his salary, within six weeks from the date of receipt/production of a copy of this order.*

*If the admitted amount/arrears is not paid within the said period, the petitioner shall be entitled to get interest @10% per annum from the date the amount found payable till the date of final payment.”*

*7. The order passed by the Single Judge and some other orders were challenged by the State by filing Letters Patent Appeals before the Division Bench. The relevant submissions in L.P.A.No. 265 of 2014, pertaining to the appellant were noted by the Division Bench as under:-*

*“So far as the respondent of L.P.A. No.265 of 2014 (original petitioner in W.P.S.No. 2005 of 2013) is concerned, the management was taken over by the Government and by that time, Alam Committee was constituted of three member to weed out those teachers, who were appointed without any eligibility or qualification. This weeding out process was done by Alam Committee and a report was also given by the said Committee. As per the report given by this Alam Committee, the respondent of L.P.A. No. 265 of 2014, who was appointed by the School Management Committee, was not having Senior Teachers Training from a recognized institution, and hence, his services were not recognized. This aspect of the matter has not been properly appreciated by the learned Single Judge while allowing the writ petition being W.P.(S)No.2005 of 2013 vide judgment and order dated 30.07.2013.”*

*The Division Bench by its judgment, presently under appeal, set aside the view taken by the Single Judge against which the present appeal has been preferred.*

*8. The instant case comes in the ‘Ist Category’ of cases as stated above. Insofar as that category is concerned, the matter stands concluded by the decisions of*



*the High Court, which were confirmed by dismissal of Special Leave Petition arising therefrom. In the circumstances, the Division Bench was not justified in taking a different view in the matter.*

*9. We, therefore, allow this appeal, set aside the view taken by the Division Bench with regard to the case of the appellant and direct:*

*a) that the qualification and the Certificate issued by the College shall be considered to be good and valid qualification for the appellant;*

*b) the appellant shall be entitled to have all the benefits accruing to him from the service rendered as Assistant Teacher and all consequential benefits including the arrears of salary, if any, shall be paid within eight weeks from today; and*

*c) in case the arrears are not paid within the aforesaid period, the appellant shall be entitled to interest @ 6% per annum.”*

6.2. Thus, from the aforesaid decision rendered by the Hon’ble Supreme Court, it can be said that in the said case also the concerned appellant was appointed as Assistant Teacher in the Project Girls High School in the year 1984 by the concerned Managing Committee of the school. The said appellant was issued a certificate by Sister Nivedita College, Calcutta, in 1993 certifying that the said appellant had completed the course of Senior Teachers Training in the examination held on 22.08.1993. The Hon’ble Supreme Court has observed in paragraph 5(B) with regard to the order passed by the learned Single Judge of the concerned High Court, wherein also the three-men committee rejected the claim of the concerned petitioner, who had obtained



degree of Teachers Training from Sister Nivedita College, Kolkata, on the ground that the same was not a recognized college and thereafter the Hon'ble Supreme Court has observed that the cases where the certificates were issued by the College, before the NCTE Act, 1993 came into effect on 01.07.1995, shall be considered to be good and valid qualification. The Hon'ble Supreme Court, therefore, held that the concerned appellant/petitioner shall be entitled to all the benefits accruing to him from the service rendered as Assistant Teacher and all the consequential benefits, including the arrears of salary, shall be paid within the stipulated time.

7. Keeping in view the aforesaid observations made by the Hon'ble Supreme Court in identical matter, if the case of the present appellant is examined, we are of the view that the case of the present appellant/original petitioner is covered by the aforesaid decision.

7.1. Accordingly, the present appeal is allowed. The impugned order dated 04.03.2020 passed by the learned Single Judge in Civil Review No. 205 of 2019 and the order dated 14.09.2018 passed by the learned Single Judge in CWJC No. 17064 of 2011 are hereby quashed and set aside.



7.2. This Letters Patent Appeal stands allowed accordingly.

7.3. The appellant/original petitioner shall be entitled to all the benefits accruing to him from the service rendered as Assistant Teacher and respondents are hereby directed to pay all consequential benefits, including the arrears of salary, to the appellant/original petitioner within a period of three months from the date of receipt/production of a copy of this order.

**(Vipul M. Pancholi, J)**

**(Ramesh Chand Malviya, J)**

Pawan/-

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