

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12585 of 2015

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Sahdeo Mandal, Son of Late Mangal Mahto, resident of village- Arma, P.S.
Kajra (Surajgarha), District- Lakhisarai

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Department, Government of Bihar, Patna
3. The Commissioner and Secretary, Human Resources Department, Government of Bihar, Patna
4. The Director, Primary Education, Government of Bihar, Patna
5. The District Magistrate, Lakhisarai
6. The Deputy Development Commissioner, Lakhisarai
7. The Member, District Teachers Employment Appellate Tribunal, Lakhisarai
8. The District Education Superintendent, Lakhisarai
9. The District Education Officer, Lakhisarai
10. The Block Development Officer, Lakhisarai
11. The Block Education Officer, Lakhisarai
12. The Panchayat Secretary, Gram Panchayat Raj, Arma, P.S.- Kajra, District- Lakhisarai
13. The Mukhiya, Gram Panchayat Raj, Arma, P.s.- Kajra (Surajgarha), District- Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manmohan Prasad Singh, Advocate Mr. Narsingh Tanti, Advocate
For the State	:	Mr. Dharendra Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 16-01-2024

1. Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant application for
the following relief(s):-



“1. That this an application for issuance of writ/writs, order/orders and direction/directions by quashing the office order contained in letter no.12/प्रशि० वाद 65/06-303 (Annexure-4) dt-2.9.08 issued by the Chief Secretary, Human Resources Department, Govt. of Bihar, (Resp. No.2) to the extent whereby and where under they have cancelled earlier office order contained in letter No.57/Pat. Dated 16.3.2007 (Annexure-5) issued by the Commissioner and Secretary, Human Resource Department, Govt. of Bihar, (Resp. No.3), regarding the recognition of Bhagwan Budh Teachers Training College, Nirmali, Supaul under which the petitioner has passed his examination in Ist Division conducted by the same under the direction of Hon'ble Supreme Court for the students of Session 1989-91 upon which he claimed for appointment/selection on the post of Trained Primary Teachers, under Gram Panchayat Teachers Employment, 2008, within the Panchayat Arma, Block and District- Lakhisarai, after setting aside the order dated 4.7.2011 passed in Appeal No.121 of 2010-11(Annexure-2) by the District Teachers Employment Tribunal, Lakhisarai. (Resp. No.7)”

3. The case of the petitioner in brief is that the respondents having invited applications for appointment as trained Panchayat Teachers under the second phase, the petitioner fulfilling all the requirements filed an application for the same and on being called appeared for counselling on 30.12.2010. The candidature of the petitioner having illegally



been rejected in the counselling, the petitioner filed an appeal (Appeal no.121 of 2010-11) before the District Teachers Employment Appellate Tribunal, Lakhisarai which was dismissed vide order dated 4.7.2011. The dismissal was on the ground that the applicant had not submitted his final training certificate before the Panchayat Secretary. The petitioner moved this Court by filing CWJC no. 10741 of 2013 against the order of the Appellate Tribunal. The writ application of the petitioner was dismissed vide order dated 1.12.2014 (Annexure-3) in the following terms:-

“Heard learned counsel for the parties.

So long as Annexure-A, dated 02.09.2008 stands, no relief can be granted to the petitioner in the present writ application, because the very foundation as contained in Annexure-3 has been knocked out by the said decision.

Petitioner may assail the order, contained in Annexure-A, if he so wants.

Writ application is otherwise dismissed.”

4. By order dated 2.9.2008, which finds mention in the order dated 1.12.2014 quoted herein above, it was observed that so far as the recognition is concerned, after coming of the NCTE Act, 1993, in view of the provisions mentioned therein, the grant of recognition was no longer in the domain of the State Government. It is this order dated 2.9.2008 which along with



other orders which have been challenged by the petitioner in the instant writ application. Besides challenge to the order dated 2.9.2008, the petitioner has also challenged the other orders including the order dated 4.7.2011 passed in Appeal no.121 of 2010-11 (Annexure-2) by the District Teachers Employment Tribunal, Lakhisarai rejecting the appeal preferred by the petitioner.

5. Learned counsel for the petitioner in support of his contention refers to and relies on the judgment of the Hon'ble Supreme Court dated 23.11.2010 in the case of Bhagwan Budha Prathmik Technical Training College Nirmali vs. the State of Bihar & Others and analogous case brought on record as Annexure-A to the counter affidavit of respondent no.4.

6. In response, learned counsel for the respondents relying on the statement made in the writ application together with the counter affidavit of respondent- Director, Primary Education submits that reading of the judgment dated 23.11.2010 in the case of Bhagwan Budha Prathmik Technical Training College Nirmali (supra) brought on record by the respondents in their counter affidavit as also other judgments of the Hon'ble Supreme Court, it is settled that after coming of the NCTE Act, 1993, so far as recognition of the institution is



concerned, it is within the sole domain of the National Council for Teacher Education and not of the State Government. The institution of the petitioner not having the required recognition of the NCTE, the petitioner was not qualified nor eligible for making an application for appointment as Panchayat Teacher and the respondent authorities including the tribunal has rightly rejected the application of the petitioner. There is no merit in the instant application and the same be dismissed.

7. Having heard learned counsel for the parties and taking into consideration the material on record, the facts relevant for the instant application are that the petitioner having obtained his two years degree course in teachers training from Bhagwan Budha Prathmik Shikshak Shiksha Mahavidyalaya in the year 2009, applied for appointment as a Panchayat Teacher, as stated above. It is not in dispute that the appointments were to take place in accordance with the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) (Amendment) Rules, 2008. Rule 8 of the Rules provide that for making an application for appointment, the candidate should have obtained his two years Teachers Training Diploma or Certificate from an institution recognized by the National Council for Teacher Education.



8. So far as the case of the petitioner is concerned, even though the claim of the petitioner is that he got his degree on 13.11.2009 ie prior to the date of counselling and did produce the same contrary to the findings of the authorities in the orders impugned, it is not in dispute that the institution in question from which the petitioner obtained his degree in the year 2009, at no point of time was it recognized by the National Council for Teacher Education as required under the NCTE Act. In the opinion of the Court, the petitioner lacking the basic degree of having a requisite qualification from an institution duly recognized by the Regional Committee under the NCTE Act, 1993, was ineligible to apply for the post of Panchayat Teacher.

9. The Court thus finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
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