

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6416 of 2016

1. Prabhat Kumar Sinha S/o Sri Naval Kishore Prasad R/o Village - Mianpura K.E. Inter Road, Kashipur Bagra, District - Vaishali.
2. Md. Zainuddin S/o late Md. Kazim R/o Village - Chaknoor, P.O. - Rahmatpur, P.S. - Muffasil, District - Samastipur.
3. Md. Shakil S/o late Md. Aquil R/o Village - Chaknoor, P.O. - Rahmatpur, P.S. - Muffasil, District - Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resource Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Buddh Marg, Patna.
7. The District Magistrate, Samastipur.
8. The District Education Officer, Samastipur.
9. The District Programme Officer, Establishment, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Sinha, Advocate Mr. Gyanendra Kumar Shukla, Advocate
For the Respondent/s	:	Mr. Sitaram Yadav, GP 16 Mr. Gyan Shankar, Advocate Ms. Kumari Adity, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 08-02-2024

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

2. The petitioners have filed the instant application for the following reliefs:

“i. For quashing the letter contained in memo no.1489 dated 27.5.2014 and memo no. 907 dated



24.2.2015 whereby and where under the appointment of the petitioners as Assistant Teacher have been cancelled on the ground that their training institution Aragikia Ismail Karim Primary Teachers Training College, Chaknoor, Samastipur, vide official letter no. 286 dated 26.6.1992 has been kept in the list of unrecognized institution.

ii. It is further prayed for quashing the letter no. 62 dated 2.4.2011 whereby respondent Bihar School Examination Board after more than two decade cancelled the result of the students enrolled through Aragikia Ismail Karim Primary Teachers Training College, Chaknoor, Samastipur of session 84-86 to 87-89 and further for quashing the consequential letter contained in memo no. 283 date 21.5.2014 issued by the Joint Secretary of Education Department whereby and where under the decision was taken that mark- sheet and certificate issued to the students of college by the Bihar School Examination Board (hereinafter referred as Board for brevity) be treated invalid and not valid for any appointment on basis of the said mark- sheets.

iii. It is further prayed that this Hon'ble court be pleased to allow the petitioners to continue on the post of assistant teacher in their school by treating the mark- sheet and certificate valid which was issued by the Board.

A photo copy of the memo. No. 907 dated 24.2.2015, letter no. 62 dated 2.4.2011 and memo no. 283 dated 21.5.2014 are annexed here to and marked as annexure- 1, 2 & 3 to this petition.”

3. The case of the petitioners in brief is that petitioner nos. 2 and 3 by office order contained in Memo no. 907 dated 24.2.2015 (Annexure-1) issued under the signature of the



District Education Officer, Samatipur and the petitioner no.1 by office order contained in memo no.1489 on 27.5.2015 issued under the signature of the District Programme Officer (Establishment), Jehanabad both orders impugned herein, their appointments were cancelled on the ground of the recognition of their institution having been cancelled by the State Government and consequent cancellation of their results.

4. Learned counsel for the petitioners submits that from perusal of the orders impugned as contained in Annexure-1 series, it is not in doubt that all the three petitioners were appointed against 34,540 vacancies. Reliance is placed on the judgment of the Hon'ble Supreme Court in the case of SLP (C) no.26824 of 2012 and categorical assertion with respect to the same in paragraph no.13 of the writ application.

5. In response, learned counsel for the respondents though opposes the prayer of the petitioners in the writ application, however, so far as the aforesaid contention of the petitioners is concerned and with respect to the statement made in paragraph no.13 of the writ application, it has been stated in the counter affidavit filed on behalf of the District Programme Officer(Establishment), Samstipur that it is a matter of record.

6. Having heard learned counsel for the parties and



having perused the material on record, it would be relevant to quote the relevant portion of the order of the Hon'ble Supreme Court passed in SLP(C) no.26824 of 2012 which is as follows:-

“ We also direct that the applications, special leave petitions and writ petitions filed before us be treated as withdrawn, with liberty to the parties to approach the High Court individually or otherwise, for relief, if any, but without, in any way, affecting the appointments of those teachers who have already been appointed against the vacant 34,540 posts and are working. We have been informed during the hearing that about 2413 posts out of the 34,540 posts were still left to be filled up. All the applications, Special Leave Petitions and Writ Petitions are, therefore, disposed of in the light of the aforesaid observations. 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.”
(emphasis supplied)

7. Thus from the extract of the order quoted above it is clear that the Hon'ble Supreme Court has categorically directed that those teachers who have already been appointed against the vacant 34540 posts and are working should not be disturbed in any way. Further from perusal of the orders impugned dated 24.4.2015 and 27.5.2014 as contained in Annexure-1 series, it has categorically been stated therein that the three petitioners were appointed against the said 34540 posts. No order of termination could have been passed against the petitioners in view of the order of the Hon'ble Supreme Court.



8. Thus in view of the facts of the case, the orders impugned are unsustainable. The orders contained in Memo no. 907 dated 24.2.2015 issued under the signature of the District Education Officer, Samatipur and the order contained in memo no.1489 dated 27.5.2015 issued under the signature of the District Programme Officer (Establishment), Jehanabad with respect to the petitioners herein are set aside.

9. The writ application is allowed.

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	14.2.2024
Transmission Date	

