

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14914 of 2021

Sanjay Kumar Son of Akhilesh Prasad Mandal Resident of Village- Piprahi,
P.S.- Ghailadh, District- Madhepura, at present posted as the Deputy
Development Commissioner-cum- Chief Executive Officer, Zila Parishad,
Munger.

... .. Petitioner/s

Versus

1. Smt. Dipika Kumari D/o Sri Sitaram Pandit, W/o Jitendra Pandit Resident of
Village- Jinedpur, P.O.- Rajaura, P.S.- Muffasil, District- Begusarai.
2. The State of Bihar, through the Principal Secretary Education Department,
Govt. of Bihar, Patna.
3. The District Teacher Appointment Appellate Authority Munger through the
Member.
4. The District Magistrate Munger.
5. The District Programme Officer (Est.) Munger.
6. The District Education Officer Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prem Ranjan Kumar, Adv.
For the Respondent/s	:	Mr.Madhaw Pd. Yadaw (Gp23) Mr.Birendra Nath Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date :03-10-2024

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

2. The present writ application has been filed for quashing the
order dated 30.07.2019 passed in Appeal No. 18/2019 (Dipika
Kumari Vs. State of Bihar & others) and its analogous case
Appeal No. 45/2019 (Goutam Kumar Singh Vs. State of Bihar &
others) by the learned State Appellate Authority (Education
Department, Bihar) Patna whereby the learned Court has been
pleased to allow the aforesaid both appeals and the impugned



order dated 05.11.2018 passed by the learned District Appellate Authority, Munger in Appeal Case No. 23/2017 along with 25/2017 has been set aside and further it has been held by the aforesaid learned court that the appellants/respondents are entitled to be re-employed on the post of Music Teacher in Secondary School under Zila Parishad, Munger and further direction has been given to the effect that they may be re-employed as Music Teacher under Zila Parishad, Munger and the order may be implemented within six weeks from the date of receipt/production of a copy of the order.

3. The brief facts of the case is that the respondent no.1 has applied for the post of Music Teacher in Secondary School under Zila Parishad, Munger, in the year, 2016 on the basis of Sangit Prabhakar Degree (6th year) from Paryag Sangit Samiti, Allahabad. The respondent no.1 was selected and employed as Music Teacher vide letter no.149 dated 15.10.2016 and she joined on 26.10.2016 and worked as Music Teacher till 11.08.2017. On 12.08.2017, Headmaster-in-Charge of the School informed the respondent no.1 that her appointment has been cancelled by the Deputy Development Commissioner-cum-Chief Executive Officer (DDC-cum-CEO), Zila Parishad, Munger under letter no.443 dated 10.08.2017.

4. Prior to the same the D.D.C.-cum-Chief Executive Officer



has issued show cause to the Respondent No. 1 vide Letter no. 79 dated 02.05.2017 stating therein that the Respondent No. 1 has passed Sangit Prabhakar Degree (6th year) in the year 1996 and she also passed the matriculation examination in the same year (1996) which is wrong in accordance with the rules.

5. The Respondent No. 1 filed reply of his show cause before the authority stating therein that written examination of music course under Prayag Sangit Samiti, Allahabad is conducted in the month of December each year and practical examination is held in the month May of next year and she passed the matriculation examination in the year 1996 through supplementary examination and took admission in Music Course in the month of October, 1996 and thereafter she appeared in written/theory examination of Sangit Prabhakar Degree (6th year) in the month of December, 1996 and after practical conducted in the month of May next year passed the Sangit Prabhakar examination in 1997 and as such the result of both examination did not fall in the same year.

6. Since the show cause filed on behalf of Respondent No. 1 was found not satisfactory, as such, further second show cause was asked vide letter no. 265 dated 08.06.2017 stating therein that Sangit Prabhakar Degree is the course of two year and without fulfilling condition she took admission and passed Sangit Prabhakar hardly within one year and as such her admission



under Sangit Prabhakar is apparently doubtful.

7. The Respondent no. 1 gave her reply dated 14.06.2017 and 16.06.2017 against second show cause before the authority mentioning therein that the session of Prayag Sangit Samiti, Allahabad starts from 1st July of each year to the month of June next year and she passed the matriculation examination in the year 1996 and after result she took admission in the year 1996 in the course of Sangit Prabhakar (6th year) which is only one year course and 5th years is the separate course for which no any certificate/no academic qualification is required.

8. It was also stated therein that session of Matric examination was 1995-96 and Sangit Prabhakar examination session 1996-97 was different.

9. Her Academic qualification filed for employment of teacher i.e. Matriculation passing year and Sangit Prabhakar course passing year is same i.e. 1994/1996 as result of which it was found in inquiry that the employment is wrong and after obtaining show cause as well as second show cause and finding no appropriate reply in respect of passing matriculation and Sangit Prabhakar examination in the same year i.e. 1994/1996 the employment of respondent no.1 was cancelled vide order no.443 dated 10.08.2017.

10. Learned counsel for the petitioner submits that in



pursuance to the same, the Registrar, Prayag Sangit Samiti, Allahabad vide letter no.2632 dated 21.07.2017 (Annexure-P/2 to the writ petition) stated that before admission in Prabhakar Examination, students should have passed matriculation and not before at the time of examination and on the basis of clarification from the Registrar, Prayag Sangit Samiti, Allahabad, the employment of respondent no.1 was cancelled vide order memo no.443 dated 10.08.2017 (Annexure-P/3 to the writ petition).

11. It is submitted that after cancellation of the appointment of the respondent no.1, the respondent no.1 filed an appeal before the District Appellate Authority, Munger and in the aforesaid case the rejoinder/reply was filed on behalf of the D.D.C.-cum-C.E.O., Zila Parishad, Munger and after hearing the parties, the Appeal Case No.23/2017 preferred on behalf of respondent no.1 was dismissed vide order dated 05.11.2018 (Annexure-P/4 to the writ petition). Against the aforesaid order, Appeal No.18/2019 was preferred on behalf of the respondent no.1 before the State Appellate Authority and the same has been allowed vide order dated 30.07.2019 along with Appeal Case No.45/2019 (Annexure-1).

12. It is submitted that CWJC No. 5077/2018 was disposed off vide order dated 22.07.2019 and after hearing the parties the Hon'ble Court was pleased to disposed off the aforesaid writ



application with a direction to the effect that the Principal Secretary, Education Department is required to address the aforesaid issue and take appropriate decision within a maximum period of three weeks from the date of filing of the representation along with a copy of the order.

13. In compliance of the aforesaid order passed by this Court the decision has been taken to the effect that prior to appearing in the examination for Graduation in Sangit Subject or equivalent to the same the qualification of Matriculation certificate by the Board duly recognized by the State Government/Central Government will be essential as it is evident from the order as contained in Memo No. 11/Mu.9-148/2019/1951 dated 23.10.2019 (Annexure-P/6 to the writ petition).

14. It is evident that before admission of a student in Sangit Prabhakar course he has to pass the matriculation examination as the same is mandatory in nature and to the aforesaid effect the decision has also been taken by the State Government in compliance of the order dated 22.07.2019 passed in CWJC No.5077/2018 by this Court.

15. It is submitted that the appeal filed on behalf of the Respondent No. 1 has been allowed mainly on the ground that there is no allegation that the same is forged and fabricated one or the same has not been cancelled by the Prayag Sangit Samiti,



Allahabad. From the above facts, it is evident that the Respondent No. 1 has passed the matriculation examination in the year 1994/1996 whereas Marks Sheet of Senior Diploma 4th year and Prabhakar 6th year, the passing year has been shown as 1992 and 1994 respectively and apparently it is evident that the respondent no.1 has not passed the matriculation examination prior to obtaining the Senior Diploma 4th year and Prabhakar VIth year certificate purported to have been issued by the Prayag Sangit Samiti, Allahabad.

16. It is lastly submitted that in view of the facts stated above, the order/judgment passed by the learned State Appellate Authority is fit to be set aside.

17. A counter-affidavit is filed on behalf of the respondent no.1, whereby it is stated that the State Appellate Authority has rightly passed the order. Learned counsel for the respondent no.1 submits that the State Appellate Authority has rightly relied on the letter no.22 dated 06.09.2017 issued by the Prayag Sangit Samiti, Allahabad. In para-4 of the said letter, it has been explained that before appearing in the examination for Sangit Prabhakar degree (6th year), a candidate has to pass Matriculation examination. For appearing in the examination from first year to 5th year, no academic qualification is required.

18. Considering the rival submissions of the parties, it is an



admitted fact that for appearing in the examination from the first year to 5th year, no academic qualification is required and passing Matriculation examination is only required in the 6th year of the Sangit Prabhakar Examination and the respondent no.1 after passing the Matriculation examination, appeared in the 6th year of Sangit Prabhakar Examination.

19. In this background, since the respondent no.1 has got valid Sangit Prabhakar Degree granted by the Prayag Sangit Samiti, Allahabad and there is no allegation that the said degree is forged or fake, I do not find any illegality in the order passed by the State Appellate Authority.

20. Accordingly, this writ petition is dismissed.

(Anjani Kumar Sharan, J)

pallavi/-

AFR/NAFR	NAFR
CAV DATE	24.09.2024
Uploading Date	03.10.2024
Transmission Date	NA

