

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15183 of 2015

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Bhagwat Prasad Son of Late Amer Singh mahto, resident of village -
Bhagwanur, P.S. - Silao, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Education Department Govt. of Bihar, New Secretariat,
Patna.
3. The Director, Education, Department New Secretariate, Patna.
4. The District Education Officer, Nalanda, District - Nalanda.
5. The District Programme Officer Establishment, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Advocate
For the Respondent/s : Mr. S.P.Singh, GA7

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 4 06-02-2024 1. Heard learned counsel for the petitioner and

learned counsel for the respondents.
2. The petitioner has prayed for the following

relief/s:-

“(i) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 25.2.12 passed by the District Programme Officer (Establishment) Nalanda contained in his Memo No. 795 dated 25.2.12 whereby and where under the respondent D.P.O. has been pleased to reject the claim of the petitioner with respect to promotion in B.A. trained Pay scale.



(ii) For issuance of an appropriate writ in the nature of mandamus, commanding and directing the respondent authority to grant B.A. trained pay scale in favour of the petitioner from the date as and when petitioner got Graduation degree and/or from that date when the juniors to the petitioner have been granted graduate trained pay scale and further for direction to the respondent authority to pay the arrears of pay which is payable in favour of the petitioner after granting B.A. trained pay scale.

(iii) For issuance of any other appropriate writ/writs, order /orders, direction/ directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.”

3. From the contents of the counter affidavit filed on behalf of the District Programme Officer (Estb), Nalanda (respondent no. 5) the stand of the respondents is to the effect that the petitioner having obtained his Sahityalankar from Hindi Vidyapeeth, Deoghar (Jharkhand), in view of the judgments of this Court in case of State of Bihar and Ors. vs. Mamta Kumari [2010(4) PLJR 318], Sahityalankar cannot be treated to be equivalent to graduation and thus the petitioner is not entitled for the relief/s prayed for. The relevant portion of the counter affidavit of respondent no. 5 is reproduced hereinbelow for ready reference:-

“4) That it would be evident



from perusal of the averments made in the writ application that the petitioner had earlier approached this Hon'ble Court by filing CWJC No.15195/2007 and the said writ application was disposed of vide Annexure-10 of the writ application with direction to consider and dispose of the representation of the petitioner without going into the merit of the case of the petitioner and in compliance of the said order and direction of this Hon'ble Court, the representation of the petitioner was disposed of vide annexure-11 while rejecting the claim of the petitioner and there is no illegality in the said order.

5) That admittedly, the petitioner has obtained his graduation degree/Sahityalankar from Hindi Vidyapeeth, Deoghar (Jharkhand) and therefore, the only issue remain to be decided as to whether, the degree of Sahityalankar obtained by the petitioner from Hindi Vidyapeeth, Deoghar (Jharkhand) can be treated to be equivalent to graduation and considered for promotion of the petitioner as Trained Graduate Teacher.

6) That it is not in dispute that the said degree has not been recognized/validated by the State Govt. as equivalent to graduation for the purposes of appointment or promotion and this Hon'ble Court in many a cases has already affirmed the decision of the State Govt. holding therein that in a case where minimum qualification is prescribed as Bachelor degree, a person cannot claim promotion or other benefits by virtue of acquiring qualification of Sahityalankar from Hindi



Vidyapeeth, Deoghar.

7) That the answering respondent humbly states that the Division Benches of this Hon'ble Court in many a case has categorically held that the qualification of Sahityalankar obtained from Hindi Vidyapeeth, Deoghar is not recognized for the purpose of appointment and promotion of the teachers and further, in the recent judgment of this Hon'ble Court dated 09.08.2016 passed in WA no.273/2018, the Division Bench has affirmed the previous views of different Division Benches of this Hon'ble Court and in view of the same, the claim of the petitioner for considering his cue of promotion on the basis of degree of Sahityalankar appears to be not justified in the eye of law and such, the same rejected.

A photocopy of order dated passed in 27.11.2012 CWJC No. 13836/2012 and judgment dated 09.08.16 passed in LPA no.273/2015 are annexed herewith and marked as Annexure-A and B respectively to this counter affidavit.

8) That in view of the aforementioned facts, the claim of the petitioner claiming promotion on the basis of an unrecognized degree is unjustified and fit to be rejected and consequently, the writ application is also fit to be dismissed.”

4. Having heard learned counsel for the parties and taking into consideration the statement made in the counter affidavit filed on behalf of respondents, as quoted hereinabove,



and which have gone uncontroverted on behalf of the petitioner both on affidavit as also by learned counsel for the petitioner, the Court finds no merit in the writ application and the same is dismissed.

(Partha Sarthy, J)

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