

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13383 of 2024

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Sunita Kumari W/o Papu Das R/o village- Shahpur, Post- Uttarnama, P.S.-
Rahui, District- Nalanda, State- Bihar, Pin- 80311.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Mission Director, Bihar Mahadalit Vikash Mission, Department of welfare, Govt. of Bihar, 2nd floor Sachivalay Vistarikaran Bhawan, Block-03, Patna.
2. The Dy. Director of Bihari Mahadalit Vikash Mission Department, Govt. of Bihar, Patna.
3. The Collector, Bihar Sharif, Nalanda.
4. The District Welfare Officer, Bihar Sharif, Nalanda.
5. The Sub Divisional Officer, Rahui, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Jha, Adv.
For the Respondent/s : Mr. Government Pleader 14

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 05-09-2024 Heard learned counsel for the petitioner and learned
counsel for the state.

2. The writ petition has been filed for setting aside the
impugned order for rejection of appeal No.03 of 2024 dated
19.07.2024 passed by the Appellate Authority of Mission
Director, Bihar and also to set aside the dismissal order of the
petitioner passed by the Collector, Nalanda vide letter no.
3617/Office Sanchika No. XVII/22 dated 11.12.2023
(Annexure- 23 & 21) along with further direction to the
respondent to reinstate the petitioner with all consequential
benefits.



3. Counsel for petitioner submits that the petitioner was selected for the appointment on the post of Vikash Mitra for the *Itasang Bhadwa Panchayat* of Rahui Prakhanda *vide* memo no. 697 dated 05.06.2021. He further submits that his appointment was made by virtue of Selection Committee and after selection, he had submitted his joining in the office of S.D.O., Rahui. He further submits that the petitioner was started working as *Vikash Mitra* and Identity Card was also issued to him. It has been contended by the counsel for petitioner that the petitioner has passed equivalent degree of Matric from *Dr. Ambedkar Hindi Sanskrit Vidyapith, Jokiya, Begusarai, Bihar* in the year of 1998. He further submits that his certificate was verified and found genuine by virtue of Annexure-6 of the writ petition.

4. Counsel further submits that the Education Department, Government of Bihar has submitted its report regarding Affiliation of the said Institution and found correct *vide* Annexure-7 of the writ petition. He further submits that from Annexure-8, it is clear that the Government of India, Education Department has issued a letter to the Registrar of *Gandhi Hindi Vidyapith, Prayag* regarding recognition of B.T.C. course as equivalent to basic teachers training matter.



5. Counsel further submits that *Gandhi Hindi Vidyapith Prayag* has issued a letter No. 732 dated 12.12.1989 to the Secretary and Principal of *Dr. Ambedkar Hindi Sanskrit Vidyapith Bihar, Jokiya, Begusarai* regarding its affiliation. It has been mentioned that *Dr. Ambedkar Hindi Sanskrit Vidyapith, Bihar* has been registered under the Societies Registration Act, 1860 (Act 21 of 1860).

6. Counsel further submits that this Hon'ble High Court had passed order in this regard in CWJC No.1387 of 2007 and subsequently, in CWJC No. 8186 of 2009 with its analogous writ petitions and in CWJC No. 6740 of 2013, the *Zila Shikshak Niyojan Appellate Authority, Nalanda* had ordered to grant the validity of the certificates. He further submits that vide Annexure-17, this Hon'ble Court has pleased to test the genuineness of the certificate issued by the Institution in question in CWJC No. 6740 of 2013 vide order dated 07.12.2015.

7. Counsel further submits that the SDO, Biharsharif (Nalanda) has issued a show cause notice to the petitioner. In response of the show cause, the petitioner has filed his reply by way of affidavit (Annexure-18 & 19). Representation has also been filed before the Office of Collector, but the Collector has



passed the order of termination of the petitioner contained in Memo No. 3617 dated 11.12.2023 (Annexure-21 of the writ petition) and the said order is basically impugned. He further submits that order passed by the Collector has been challenged before this Hon'ble Court in CWJC No. 450 of 2024 in which a direction was made to prefer appeal in this matter. Thereafter, the petitioner has preferred appeal before the Appellate Authority *i.e.*, Mission Director, Govt. of Bihar through Appeal No. 03 of 2024, but his appeal was again rejected vide order dated 19.07.2024 and being aggrieved by the order passed by the District Magistrate (Annexure-21) as well as the Appellate Authority, Mission Director, Govt. of Bihar (Annexure-27), the present writ petition has been filed.

8. Counsel for petitioner further submits that the fatal consideration has been made by Annexure-17 *i.e.*, order passed by this Hon'ble Court in CWJC No. 6740 of 2013 with analogous cases in which it has been hold that the certificate of institution in question is genuine, and therefore, the order passed by the Collector and Appellate Authority are not correct and it is fit to be set aside and the petitioner may be appointed on the said post.

9. Learned counsel for the State on the other hand



submits that after going through the impugned orders passed by the Collector as well as the Appellate Authority, there is no need of filing any counter affidavit as the orders passed by the Appellate Authority is itself clear. He further submits that due reason has been assigned in the appellate order point wise on the basis of which the Appellate Authority has submitted that this certificate is not genuine and be accepted.

10. Learned counsel for state further submits that the reliance made by counsel for petitioner is on Annexure-17, *i.e.*, order passed by this Hon'ble Court in CWJC No. 6740 of 2013 dated 07.12.2015 with analogous cases. He further submits that after going through the entire Judgments, it becomes crystal clear that this Hon'ble Court has never hold that the certificate in question is genuine rather only direction has been made that the State Authority shall verify the said certificate and if it has been found that it is a genuine one, then only the petitioners of the writ petitions have been directed to be accepted the joining and also directed to make the payment.

11. Counsel for the State further submits that the Appellate Authority has categorically held that from the Letter No.1817 dated 16.10.2023 of District Education Officer, Nalanda, the clarification has been that only a competent



legislature can grant recognition about existence of any Organization or issuance of any certificate. Here, in the present case, there is absolute lacking of the same. As such, the said certificate issued by the Organization in question has not been accepted.

12. After hearing the parties and going through the pleadings of the case, it transpires to this Court that relevant portion of Annexure-17 on which reliance has been made by the petitioner is most relevant which is para-9 to 14 of the said Judgment *i.e.*, CWJC No. 6740 of 2013 dated 07.12.2015 which states as follows:-

“9. The issue is whether the certificate issued in the name of the institution as Dr. Bhim Rao Ambedkar Hindi Sanskrit Vidyapeeth, Bihar was a bonafide error of print in place of Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai, Bihar.

10. The dispute itself can be resolved, if the certificates, which have been produced by the petitioners have the records verified from the institution, namely, Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai, Bihar.

11. In the facts of the case, the following directions are being passed: The training certificate produced by Ekbal Ahmad (petitioner of C.W.J.C. No. 6740 of 2013) would be verified from Dr. Ambedkar Hindi Sanskrit



Vidyapeeth, Jokiya, Begusarai, Bihar. If on verification, it is found that the certificate was in fact issued from the institution, then in that case the impugned order dated 22.01.2013 passed by the District Education Officer, Vaishali has to be withdrawn, as the said institution is affiliated with Gandhi Hindi Vidyapeeth Prayag (Hindi University), Allahabad and is also recognized by NCTE.

12. So far as the petitioner Sanjeev Kumar (C.W.J.C. No. 7148 of 2013) is concerned, it appears that his case was recommended for appointment as an Assistant Teacher, but as his certificate was issued by Dr. Bhim Rao Ambedkar Hindi Sanskrit Vidyapeeth, Bihar and not by Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai, Bihar, his appointment was not considered. The respondents would also have his certificate verified from Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai, Bihar and if on verification it was found that such certificate, in fact, was issued from the institution, his case for appointment as an Assistant Teacher would be considered.

13. It is expected that the whole exercise would be completed within a period of three months from the date of receipt of a copy of this order.

14. With the aforesaid observation, both the writ applications are disposed of.”



13. It transpires to this Court that this Hon'ble Court in Annexure-17 of the writ petition, has never held that the said certificate issued in the name of Institution in question is genuine and valid rather only direction has been made for verification, whereas the Appellate Authority has assigned a categorical reason under which the said certificate has not been accepted. The relevant portion and reasons assigned in the Appellate order are hereby quoted below:-

(i). श्रीमती सुनीता कुमारी द्वारा वर्ष 1998 में मैट्रिक समकक्ष परीक्षा उत्तीर्ण किया गया है तथा निदेशक, शोध एवं प्रशिक्षण, शिक्षा विभाग, बिहार के पत्रांक 479, दिनांक 25.08.2022 द्वारा इस संस्थान की सम्बद्धता डी०एल० कोर्स एवं हिन्दी विश्वविद्यालय, इलाहाबाद हेतु होने की जानकारी देते हुए वर्ष 2022-23 में इसकी समाप्ति का उल्लेख किया गया है।

(ii). श्रीमती सुनीता कुमारी द्वारा प्राप्त शैक्षणिक प्रमाणपत्र किसी माध्यमिक परीक्षा बोर्ड अथवा समिति अथवा परिषद द्वारा जारी नहीं किया गया है, अपितु संलग्न प्रमाणपत्र डी०एल० कोर्स हेतु मान्य प्राप्त एवं विश्वविद्यालय से संबद्धता प्राप्त संस्थान द्वारा जारी किया गया है, जो संदेहास्पद है।

(iii). जिला शिक्षा पदाधिकारी, नालन्दा के पत्रांक 1817 दिनांक 16.10.2023 के द्वारा भी यह स्पष्ट किया गया है कि *Council of Boards of School Education in India (COBSE)* के सार्वजनिक सूचना के अनुसार मात्र संसद, राज्य विधायिका अथवा केन्द्र / राज्य सरकार के



कार्यकारी आदेश के द्वारा स्थापित बोर्ड / परिषद द्वारा ही *Xth* और *XIth* की उपाधि दी जा सकती है। *Open School Board* अथवा संस्थान ही मात्र संसद एवं राज्य विधायिका अथवा केन्द्र / राज्य सरकार के कार्यकारी आदेश के द्वारा स्थापित किए जा सकते हैं। यह अधिकार किसी अन्य संगठन अथवा शैक्षणिक संस्थान को प्राप्त नहीं है।

(iv). किसी संस्थान के किसी अन्य पाठ्यक्रम हेतु मान्यता प्राप्त होने के उपरान्त उस संस्थान द्वारा बिना किसी प्राधिकार की अनुमति से चलाए गए अन्य निम्न / उच्च स्तर के पाठ्यक्रम का संचालन करते हुए जारी प्रमाणपत्र वैध प्रतीत नहीं होता है।

(v). प्रमाणपत्र जारी करने वाले संस्थान के पदाधिकारी द्वारा प्रमाणपत्र की सत्यता को प्रमाणित करना उसके वैध होने का आधार नहीं माना जा सकता है।

14. After minute reading of findings of the Hon'ble Court in Annexure-17 as well as the reasons assigned in Appellate order, it transpires to this Court that there is a strong contest between the petitioner and the respondent about the genuineness of the certificate. The rival contention has been made from both the sides and since it is a disputed question then this Court is of the firm view that it cannot be decided in the writ jurisdiction, and therefore, this writ petition is hereby disposed off directing the petitioner to file a title suit before the Competent Court demanding the relief of genuineness of certificate and if it has been found that the said certificate is



genuine by the Competent Court then in that case, the petitioner shall be entitled for all the reliefs including his continuation of *Vikash Mitra* and also arrears of salary from the date of removal, but at this juncture, this Court is not granting any relief to the petitioner, save and except, the observation made above.

15. It is made clear that one seat shall be kept pending till disposal of this litigation.

16. Accordingly, the present writ petition stands disposed off.

(Dr. Anshuman, J)

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