

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6497 of 2016

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1. Loknath Prasad Son of Brij Nandan Rajak, Resident of Village- Gopalbanj, Police Station - Sarmera, District - Nalanda.
 2. Kedar Prasad, Son of Rama Awatar Prasad, Resident of Village - Gopalpur, Police Station - Sarmera, District - Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Department, Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Education Officer, Nalanda, District - Nalanda.
5. The District Programme Officer Establishment Nalanda.
6. The Block Development Officer, Sarmera, District - Nalanda.
7. The Secretary, Panchayat Teacher Appointment Unit Block Sarmera, P.S. - Sarmera, District - Nalanda null null

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Sagar Singh
For the Respondent/s : Mr. Umesh Kumar Roy, AC to GP-11

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 01-04-2024 1. Heard learned counsel for the parties concerned.
2. The petitioners have filed the present writ application for setting aside the order, dated 14.03.2016, passed by the Panchayat Secretary, Sarmera, Nalanda, whereby the petitioners have been terminated from the post of Panchayat Teacher on the ground that intermediate certificate produced by the petitioners for appointment are not of recognized institute. Admittedly, the petitioners have done their intermediate from Nababharat Shiksha



Parishad (NSP), India at Rourkela, Orissa.

3. Learned counsel for the petitioners submits that the petitioners are confining their case to the extent that atleast two persons, namely, Alakhdeo Kumar Arya of New Primary School, Vijwanpur, Biharsharif, Nalanda and Vibha Kumari of Middle School, Durgapur, Giriyak, Nalanda, are similarly situated persons and they have been working despite having passed from the same institute, whereas, the petitioners have been removed.
4. He relies upon a judgment of Co-ordinate Bench of this Court passed in CWJC No. 7131 of 2014, dated 19.11.2018, wherein the decision has been taken that the petitioner is entitled for similar benefits or the authorities to take corrective measures with regard to all those who were continuing on the strength of the same certificate.
5. Learned counsel further submits that the Co-ordinate Bench has passed the aforesaid order relying upon the Full Bench decision rendered in **Amresh Kumar Singh vs State of Bihar and Ors.** reported in **2018 (2) PLJR 929.**
6. On the other hand, learned counsel for the State submits that the person working on the basis of certificate issued



by Nababharat Shiksha Parishad (NSP), India at Rourkela, Orissa, has already been removed, whose name is Sushma Kumari.

7. A Co-ordinate Bench of this Court in CWJC No. 1634 of 2014, dated 13.02.2014, has found that Nababharat Shiksha Parishad, Orissa, is said to be an autonomous body registered under Society Registration Act by the Government of Orissa. The registration of an institution cannot be said to be equivalent of being recognized by the State Government. In fact, it was for the petitioner to produce any evidence that Nababharat Shiksha Parishad, Orissa, was recognized by the State Government of Orissa. That having been not done, this Court will have no difficulty in affirming the findings of the Tribunal in the impugned order wherein it has been held that the petitioner did not possess the requisite qualifications as laid down in the Rules.
8. I have heard learned counsel for the parties and perused the materials available on record.
9. It is an admitted position that the petitioners have passed intermediate examination from Nababharat Shiksha Parishad (NSP), India at Rourkela, Orissa.



10. While examining the certificate of Nababharat Shiksha Parishad (NSP), India at Rourkela, Orissa, the Co-ordinate Bench, in CWJC No. 1634 of 2014, has held that there is no evidence to show that the Nababharat Shiksha Parishad (NSP), India at Rourkela, Orissa, was recognized by the State Government of Orissa.
11. Another Co-ordinate Bench of this Court in CWJC No. 7313 of 2012 (Shyam Kishore Kumar vs. The State of Bihar and Ors.), dated 16.04.2012, has held that recognition of an institution is a positive and definite act which must appear from any specific order/notification/resolution of the Government. No institution can stand recognized by the State on presumption or assumption. Only because name of the institution was not included in the list contained in the order of the Department, it cannot be accepted that the same shall stand recognized. For establishing a case the petitioner was required to produce specific Government Resolution/Order/Circular recognizing the institution during the period petitioner had joined the course and/or appeared in the examination conducted by the institution and got his degree.



12. In the entire writ application, the petitioners have not produced any documents for establishing the fact that the Nababharat Shiksha Parishad (NSP), India at Rourkela, Orissa, is a recognized institution. There is nothing on record to show that the institution has been recognized by the State Government by any specific Act and/or the certificate issued by the Nababharat Shiksha Parishad (NSP), India at Rourkela, Orissa, is valid. The petitioners have also failed to produce any Government order/circular/resolution in support of recognition of the institution during the period the petitioners obtained their intermediate certificate from the institution.
13. The Supreme Court in a judgment passed in **Chowgule and Company Ltd. v. Assistant Director General of Foreign Trade and Ors.** reported in **2023 (1) SCC 320** has held that merely because some others are granted the benefit wrongly, the party cannot be permitted to pray the similar benefits. There cannot be any negative discrimination which may perpetuate the illegality.
14. Article 14 cannot be applied in negative terms inasmuch as some other persons having the similar certificate of unrecognized institution are working. This Court shall



refrain from passing any order allowing the petitioners to work on the strength of certificates granted by unrecognized institution. This will perpetuate the illegality further.

15. The State can take corrective measures and appropriate action against those persons who are working on the strength of the certificate issued by Nababharat Shiksha Parishad (NSP), India at Rourkela, Orissa, but that will not give any legal/vested right to petitioners to claim appointment on the basis of the certificate in their favour by an unrecognized institution. The judgment relied upon by the petitioners does not apply in the facts of the present case.
16. Accordingly, I do not find any merit in this writ application and the same stands dismissed.

(Anil Kumar Sinha, J)

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