

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22049 of 2019

1. Nesar Ahmad Son of Md. Merajuddin, Resident of Village and P.O and P.S.- Hiramma, District- Sheohar.
2. Shashi Kant Gupta, Son of Ramprit Sah, Resident of Village- Mahmaddpur, P.O.- Halai, P.S.- Tajpur, District- Samastipur.
3. Beena Kumari, D/o Kamleshwar Prasad Singh, Resident of Village and P.O.- Taradhamon, P.S. Patori, District- Samastipur.
4. Md. Khurshid Anwar, Son of Md. Asraf Nadaf, Resident of Village- Rani Pati, P.S. Murliganj, District- Madhepura.
5. Ramanand Paswan, Son of Yamuna Paswan Resident of Village- Chauper, P.S. Sindhiya, District- Samastipur.
6. Ganesh Kumar, Son of Bhojoo Das, Resident of Village- Karrakh, P.O.- Sakmohan, P.S. Vibhutipur, District- Samastipur.
7. Sunil Bihari, Son of Shanichar Das, Resident of Village Khadi Yahi, P.O and P.S. Bibhutipur, District- Samastipur.
8. Praveen Kumar, Son of Jagdish Prasad, Resident of Village- Naya Gaon, P.S. Nayagaon, District- Saran at Chapra.
9. Baby Kumari, D/o Guru Sah, Resident of Village- Mahmaddpur, P.O. Halai, P.S.- Tajpur, District- Samastipur.
10. Dinesh Kumar Mahto, Son of Harni Mahto, Resident of Village- Chakhsadpur Samsa, P.S. Mansoorchak, District- Begusarai.
11. Sanjay Kumar Paswan, Son of Ram Lakhan Paswan, Resident of Village- Supaul, P.S. Angarghat, District- Samastipur.
12. Binesh Paswan, Son of Sri Harinandan Paswan, Resident of Village- Meyar, P.S. Noorsarai, District- Nalanda.
13. Md. Hasim, Son of Md. Suleman, Resident of Nanpahi, P.S. Fulparas, District- Madhubani.
14. Kiran Kumari Gupta, D/o Jagdish Prasad, Resident of Village- Sonar Toli, P.S. Siwan (Town), District- Siwan.
15. Abdul Malik, Son of Mahmood Alam, Fatima, Resident of Village- Fatima Chak, P.S. and District- Sheohar.
16. Md. Ibrahim, Son of Yasin, Resident of Village- Dhabhi, P.S. Laukhi, District- Madhubani.
17. Md. Israil, Son of Yasin , Resident of Village- Dhabhi, P.S. Laukhi, District- Madhubani.
18. Reyaz Ahmad, Son of Md. Sayeed, Resident of Village- Raibari, Mahuawa Tola, Bhulahwa, P.S. Chautarwa, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.



3. The Director, Primary Education, Government of Bihar, Patna.
4. The Bihar Staff Selection Commission, through its Secretary, Veterinary College, Patna.
5. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Shakir Ahmad
For the Respondent/s : Mr. Madhaw Prasad Yadaw (Gp23)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date: 30-04-2024

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

2. This writ petition has been filed for issuance of appropriate writ/writs, order/orders, direction/directions commanding the respondent authorities especially respondent no. 4 and 5 to appoint the petitioners on the post of Assistant Teacher in pursuance of Advertisement no. 210/2010 as all the petitioners have valid degree of Teachers Training Course duly recognized by the competent authority and number of students/candidates who got the Degree from Gandhi Hindi Vidyapith, Prayag have already been appointed by the respondent authorities but candidature of petitioners are kept in abeyance after counselling and selection and appointment letters were not issued to them.

3. The controversy erupted for mode of



appointment of primary Teachers in the State of Bihar in the early 1990s. The dispute went to the Hon'ble Apex Court and in case of **Ram Vinay Kumar Versus The State of Bihar & Ors**, the Hon'ble Apex Court gave a specific direction to make appointment from amongst only the Trained Teachers. However, ignoring the direction of Hon'ble Apex Court, advertisement was circulated in the year 2003 for appointment of 34540 Assistant Teachers in primary schools by adopting a different yardstick.

4. The Hon'ble Division Bench of Patna High Court has set aside the advertisement vide order dated 01.07.2004 passed in CWJC No. 13246/2003 and other analogous cases and also issued certain directions to be followed in the recruitment of Primary School Teachers in the State of Bihar, after giving anxious consideration regarding the pathetic situation of the elementary education system in the State of Bihar.

5. State-respondents had approached the Hon'ble Apex Court by filing SLP(C) No. 22882/2004, which was withdrawn with an undertaking given by them to fill up the vacant post of Assistant Teachers in primary schools of Bihar. Since the undertaking given in the Hon'ble Apex Court was not acted upon by the State, occasion arose for filing of Contempt petition being contempt petition (Civil) No. 297/2007 and



during pendency of contempt petition before the Hon'ble Apex Court, a rule was framed being known as Bihar Special Primary Teachers Appointment Rule, 2010 vide Resolution No. 1-61/09/730 dated 08.06.2010. Accordingly, Advertisement No. 210/2010 was circulated for appointment of 34540 Assistant Teachers in the Primary School of State of Bihar among those candidates who have obtained their Teachers Training Course up to 23.01.2006.

6. There was some controversy regarding recognized and de-recognized Teachers Training College and to resolve such controversy respondent no. 2 issued letter no. 64 dated 18.01.2012 by which five Teachers Training Colleges were shortlisted under the category of de-recognized Teachers Training College and certainly Teachers Training College of petitioners were not included in the list of de-recognized Teachers Training College.

7. Recently for appointment of remainder vacant posts of 17 Assistant Teachers, out of total 34540 Assistant Teachers, Respondent no.3 issued Memo no.1136 dated 30.08.2019 by which list of candidates of different Districts were circulated, who are going to be considered and called for Counselling for 1960 posts and list of Begusarai and Siwan



District show that candidates of Gandhi Hindi Vidyapith Allahabad (Prayag) were also called for appointment on remaining vacant posts.

8. In view of the above facts, it is apparent that the Commission/Respondents recognized the Teachers Training Degree granted by Gandhi Hindi Vidyapith Prayag (U.P)/Allahabad in the case of some candidates, however, in the case of petitioners, though they were called for counselling in the year 2012, but appointment letters were not issued to them, which itself shows that respondents have not acted fairly with the petitioners and they have adopted hostile approach towards them. However, at the same time, some candidates, having Teachers Training Degree from Gandhi Hindi Vidyapith, were appointed.

9. Initially, the Hon'ble Apex Court restrained any other forum/Hon'ble High Court in interfering with the selection process of 34540 Assistant Teachers. However, later on, considering the large number of complaint, said order has been modified/relaxed and applicants were granted liberty to approach the Hon'ble High Court for ventilation of their respective grievances, which is apparent from para-9 of the order dated 18.07.2013 passed in SLP (Civil) No. 26824/2012



(Yashwant Singh & Ors Vrs State of Bihar & Ors).

10. Learned counsel for the petitioners, by way of supplementary affidavit, submits that the case of the petitioners is squarely covered by the Division Bench Judgment passed by this Court in L.P.A. No. 1254 of 2016 and other analogous cases dated 28.08.2023.

11. A counter affidavit has been filed on behalf of the respondent nos. 4 and 5 in which it is stated that advertisement was published in compliance of the orders passed by the Hon'ble Supreme Court against the controversies raised in this behalf, right from the very beginning for appointment of Trained Assistant Teachers in the Primary School of Government of Bihar. Apparently, the controversy traveled from this Court to the Hon'ble Supreme Court. However, without giving details of litigation, the facts, in nut shell, the controversy is that the advertisement no. 210/2010 was floated to appoint 34540 trained teachers in the Primary Schools of Bihar Government in compliance of the direction of the Hon'ble Apex Court in Contempt Petition (C) 297 of 2007 :-

"Vacancies to be filled up with a trained teacher as a one-time measure to give effect to the undertaking given by Bihar Govt. on 18th 23rd January



2006.”

12. Subsequently, a list was prepared for this purpose, which was also disputed before the Hon'ble Supreme Court regarding eligibility of some of the candidates and some of the institutions on the ground of recognition. Taking into account of these anomalies, the Hon'ble Supreme Court had appointed Hon'ble Mr. Justice S.K. Chattopadhyay, a former Judge of the Patna High Court, as a Special Officer to take up and complete the finalization of the seniority-list.

13. Hon'ble Mr. Justice S.K. Chattopadhyay had prepared a list of 94167 candidates amongst the total applicants of 123149 as genuine candidates and rejected the application of 28982 applicants from the list of 123149, on the ground of fake and unrecognized institutions and thereafter sent it to the Hon'ble Supreme Court through Human Resource Department, Bihar.

14. Subsequently, the Hon'ble Supreme Court had passed an order dated 13.10.2011 in Contempt Petition (C) No. 297/2007, the relevant portion whereof is being reproduced herein below:-

“Let the original Roster, as well as the seniority-list, which have been produced before us in a sealed cover



and is at present lying in the custody of Gopal Singh, learned Standing Counsel for the State of Bihar, be sent to the Human Resource Department, Government of Bihar, for implementing this order. We make it clear that since the Roster, as well as the seniority-list, have been prepared in terms of the order of this Court no Court shall entertain any other objection or applications with regard to the same.”

15. Learned counsel for the State has relied upon a judgment passed by the Hon'ble Apex Court in the case of Rajesh Roushan Vs. State of Bihar & Ors. passed in Special Leave to Appeal (Civil) No. 20181 of 2010 in which their Lordships in concluding paragraph has been pleased to hold that the University Grants Commission has listed Gandhi Hindi Vidyapeeth, Prayag, Allahabad as one of the 21 fake universities/institutions. This would naturally mean that the persons possessing the certificates, degrees and diplomas awarded by Gandhi Hindi Vidyapeeth, Prayag, Allahabad are not entitled to prosecute further studies on the basis of such certificates, etc. or seek employment under any Government or agency/instrumentality of the State.

16. Learned counsel for the State lastly submits that the certificate possesses by the petitioner from Gandhi Hindi



Vidyapeeth, Prayag is a fake certificate.

17. It is further submitted by learned counsel for the State that a Division Bench of this Court in judgment dated 28.08.2023 of passed in L.P.A. No. 1254 of 2016 has been pleased to held in paragraph-16, which is reproduced herein below:

“16. We are of the definite opinion that in the present case where all the party-respondents were appointed as per the directions of the Hon’ble Supreme Court, under the supervision of Justice Chattopadhyay, cannot be terminated on grounds of qualifications not having been properly verified: unless otherwise permitted by the Hon’ble Supreme Court. The party respondents were appointed after their eligibility being settled by Justice Chattopadhyay, appointed by the Hon’ble Supreme Court, to oversee the selection and appointment of teachers to the vacant posts, identified as available, as per the undertaking made by the State before the Hon’ble Supreme Court. Though the verification of credentials and qualifications of the candidates were directed to be done, there could be no such verification at this late stage. As noticed by the learned Single Judge in the impugned judgment the State ought to have been more vigilant when the appointments were carried out.”

18. Having heard learned counsel for the parties and



in view of the admitted fact that the petitioner has not been appointed on the post of teacher, in my considered opinion, the present case is not covered by the judgment passed in L.P.A. No. 1254 of 2016.

19. This application is devoid of merit and dismissed accordingly.

(Anjani Kumar Sharan, J)

devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2024
Transmission Date	NA

