

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3281 of 2020

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1. Ramesh Kumar Trivedi S/o Late Brajnandan Trivedi resident of Village- Nargijivnath, P.S.- Saraiya, District- Muzaffarpur.
 2. Shree Narayan Bhagat S/o Anant Lal Bhagat resident of Jhapahan, P.S.- Ahiyapur, District- Muzaffarpur.
 3. Nand Lal Pandit S/o Raghunath Pandit resident of Village- Atardah Ramdayalu Nagar, P.S.- Sadar, District- Muzaffarpur.
 4. Binod Kumar S/o Ram Jaleshwar Singh resident of Village and Post- Kishunpur Maduban, P.S.- Kudhni, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Muzaffarpur, District- Muzaffarpur.
5. The Member, District Teachers Employment Appellate Authority, Muzaffarpur.
6. The Block Development Officer, Saraiya, District- Muzaffarpur.
7. The District Programme Officer (Establishment), District- Muzaffarpur.
8. The Block Education Extension Officer, Saraiya, District- Muzaffarpur.
9. The Member, State Appellate Authority, Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw (Gp23)
		Mr. Arvind Kumar, AC to GP 23

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV

Date : 17-09-2024

Heard the parties.

2. The present writ application has been filed on behalf of the petitioners for the following reliefs:-

(i) For quashing the order dated 07.08.2019 passed in Appeal No.401/2017 and also consequential order contained



in Memo No.471 dated 05.09.2013 issued under the signature of respondent no.6 and memo no.151 of 2013, dated 13.12.2013 issued by the respondent no.5 whereby and whereunder the petitioners were terminated from the post of Prakhanda Teacher.

(ii) For directing the respondent authorities to reinstate the petitioners in service with all consequential monetary benefit as the certificates of the petitioners are valid.

(iii) For issuance of any other direction/order for which the petitioner shall be found entitled to under the facts and circumstances of the case.

3. Learned counsel for the petitioners submits that the case at length is that, an advertisement was published in the year 2008 for appointment of Block Physical Teacher and other posts. As per the said advertisement, certificate in Physical Education (C.P.Ed.) was requisite qualification. Since, the petitioners had passed physical education from Nav Bharat Shiksha Parishad (NSP) Orissa (India), therefore, they applied for appointment to the post of Block Physical Teacher. (Annexure-1 of the writ application).

4. Subsequently, the petitioners were appointed as they were fulfilling all the requisite qualification with better marks and after appointment they were posted at different schools under Saraiya Block. (Annexure-2 series of the writ application).

5. Petitioners were appointed in the year 2010 and posted in



different Middle School and they were discharging duties with satisfaction of the concerned authorities. In the meantime, without giving any notice, the Block Development Officer, Saraiya issued letter contained in Memo No.471 dated 05.09.2013 by which the petitioners were terminated from service on pretext of one rejection order passed by the respondent no.2 in case of some others. (Annexure-3 of the writ application).

6. He further submits that the order of termination has been passed by the respondent no.6 without jurisdiction. The order has been passed merely on the basis of suspicion and on the pretext of some other candidates who were also claiming that they have passed examination from Nav Bharat Shiksha Parishad Orissa (NSP) and seeking appointment thereupon, the letter of the respondent no.2 was issued with respect to those employees vide memo no.617 dated 17.05.2013, in compliance of the order passed by this Court in C.W.J.C. No.14819 of 2012. (Annexure-4 of the writ application).

7. Vide order dated 20.09.2012, passed in C.W.J.C. No.14819 of 2012, this Court directed the respondent no.2 to examine the claim in view of direction of Authority. (Annexure-5 of the writ application).



8. He further submits that respondent no.2, relying upon the order passed in L.P.A. No.921 of 2012 in which this Court had rejected the LPA observing that the petitioners failed to establish their case. (Annexure-6 of the writ application).

9. Petitioners filed an application against the order passed by the respondent no.6, before the District Appellate Authority, Muzaffarpur but the Authority (respondent no.5) vide order dated 13.12.2013 contained in Memo No.151/2012 rejected the claim of the petitioners only on suspicion and relying upon the order passed by respondent no.2 with respect to some others without holding any enquiry. (Annexure-7 of the writ application).

10. He further submits that petitioners filed CWJC NO.7365 of 2014 before this Court and after hearing the parties, the Court directed the petitioners to move before the State Appellate Authority, Patna within a period of 30 days and the same shall be disposed of within the statutory period. (Annexure-21 of the writ application).

11. As per the direction of the Court, petitioners filed appeal before the State Appellate Authority, Patna and State Appellate Authority, Patna rejected the claim of the petitioner with the finding that the State Appellate Authority finds merit in the



order passed by the District Appellate Authority.

12. He further submits that the orders passed by the respondent no.5 and 6 is based on suspicion, even the finding of respondent no.2 is also based on presumption because there is settled law and direction to this effect has been given from the respondent no.2 itself that the certificates of the employees and the Institution must be examined before appointment.

13. He further submits that vide letter no.562 dated 26.05.2009, issued by the respondent no.2 communicated to the Administrative Officer of Nav-Bharat Shiksha Parishad, Orissa (NSP) with an information that in some cases, candidates have procured appointment on the basis of certificate of fake institution, therefore, the certificates of (NSP) India would be verified through departmental representative. It was also requested to the Administrative Officer to provide the verified certificates to the representative of the Department. So that the joining could be accepted within the time it was also requested that no additional amount should be demanded for the purpose of verification of certificates of the candidates, in the aforesaid letter the concerned authority itself annexed the certificates of 11 persons, having attested the signature of the authority of Education Department.



14. Further, the State Government sent list of candidates with their certificates for the purpose of their verification and the NSP sent the list of 323 certificates which were verified from the said institution, such list was sent to the respondent no.2 on 27.07.2009. Similarly, the State Certificate Verification Cell examine the certificate from the NSP through their representative time to time. (Annexure-9 of the writ application).

15. He further submits that before appointment of 34540 teachers, panel of candidates was prepared under the supervision of Hon'ble Mr. Justice S.K. Chattopadaya (rtd.). At that time, not only the certificate of the said institution was verified rather several candidates were appointed. The certificate of the said institution was duly verified and it was the reason that the State Government at the time of hearing before the Hon'ble Apex Court also asserted that the panel of candidates and their certificates are valid and genuine, relying upon the statement of State Government, the Hon'ble Apex Court directed for appointment from said panel. In the said list, the name of some persons of some teachers/candidates, whose names were reflecting in panel and appointed subsequently, who have passed from NSP. (Annexure-10 series of the writ



application).

16. He further submits that the respondent no.2 gave statement on affidavit before the Hon'ble Apex Court that the Institute and certificate issued from such Institute is valid then how the same authority can take different stand with respect to others, particularly when several persons have been appointed in compliance of the direction of Hon'ble Apex Court based on the reliance made by the highest authority of Education Department. Since, the Principal Secretary during the hearing of the SLP with respect to appointment of trained teachers asserted that the certificate is genuine having verified the same and in case of suspicion raised by the authority regarding genuineness of Institution the District Teachers Appellate Authority, Muzaffarpur has also held that the certificate are valid which is apparent from perusal of Memo No.463 dated 26.12.2011. (Annexure-11 of the writ application).

17. He further submits that the District Teachers Appellate Authority, Muzaffarpur has held that the certificate of NSP is valid but in case of the petitioners on 13.12.2013 came to conclusion that certificates are not genuine.

18. He further submits that without hearing the petitioners or without issuance of any notice, petitioners were terminated from



service. There is violation of principles of natural justice as well as the Article 14 of the Constitution of India.

19. He further submits that a similar matter when the State Government terminated the Assistant Teacher on pretext of doubt created by the State Authority regarding the certificate of Nav Bharat Shiksha Parisad (NSP), Orrisa, the concerned employee filed writ application bearing CWJC No.6753 of 2013 and CWJC No.17365 of 2014 and the matters were decided on 14.01.2016 and 08.02.2016, respectively. The Court set aside the termination letter and directed the respondent authorities to reinstate the petitioners in service. (Annexure-14 and 15 of the writ application).

20. He lastly submits that the case of the petitioners is same and similar as they have passed from Nav Bharat Shiksha Parisad (NSP), Orrisa, therefore, the present case may be allowed.

21. A counter affidavit is filed on behalf of the State. It is submitted by learned counsel appearing on behalf of the State that this Court in CWJC No.14819 of 2012, directed the Principal Secretary, Human Resources Development Department to examine the claim of the petitioners and in LPA No.921 of 2012, this Court found that the appellants has failed



to prove or establish that the said institution (Nav Bharat Shiksha Parisad, Orrisa) is recognized by the State of Bihar for appointment to the post of Panchayat Teacher.

22. He further submits that in compliance of the order passed by this Court in CWJC No.14819 of 2012 and order passed by this Court in LPA No.921 of 2021, Principal Secretary, Education Department, Government of Bihar, issued a letter vide memo no.617 dated 17.05.2013 and stated that Nav Bharat Shiksha Parisad, Orrisa is neither recognized by NCTE nor UGC or any State. The present petitioners also obtained the certificate of C.P.Ed from the said unrecognized institution.

23. He further submits that petitioners were not fulfilling the requisites because their certificates were issued by the same unrecognized institution, so the petitioners appointment were irregular and illegal. Therefore, the respondent no.6, vide memo no.471 dated 05.09.2023 terminate the petitioners from service which is legal, bonafide and is maintainable in the eyes of law.

24. He lastly submits that the present case and SLP No.22882/2024 (Nand Kishore Ojha vs. The State of Bihar & Ors.) is not similar. Therefore, the claim of the petitioners to get reliefs in light of the said SLP is not maintainable.

25. Heard the parties at length. It is clear that the petitioners



have failed to establish that the certificate procured by them from the institution i.e. Nav Bharat Shiksha Parisad, Orrisa (NSP) is recognized by the State of Bihar. It is also clear from the order passed in L.P.A. No.921 of 2012 that the petitioner has failed to prove or establish that the institution in question is recognized by the State of Bihar for appointment to the post of Panchayat Teacher.

26. Considering the facts and circumstances of the case, since, the petitioners have failed to establish that the Nav Bharat Shiksha Parisad, Orrisa is recognized by the State of Bihar, I do not find any merit in the present writ application.

27. In the result, this writ application stands dismissed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	02.09.2024
Uploading Date	17.09.2024
Transmission Date	NA

