

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.234 of 2020**  
**In**  
**Civil Writ Jurisdiction Case No.10990 of 2013**

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1. The State of Bihar through the Secretary, Human Resources Development Department (now, Education Department), Government of Bihar, Patna.
  2. The Director (Primary Education), Human Resources Development Department (now, Education Department), Government of Bihar, Patna.
  3. The District Education Officer, Bhojpur.

... .. Appellants.

Versus

1. Smt. Sangam Srivastava, Wife of Sri Govind Sharan Sinha, Resident of Housing Colony Chandwa, P.S.- Navada Ara, District- Bhojpur.
2. National Council for Teacher Education, through Regional Director, N.R.C. N.C.T.E., IVth Floor LIC Building Bhawani Singh Marg, Jaipur Rajasthan.

... .. Respondents.

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**Appearance :**

For the Appellants : Mr. Vishwambhar Prasad (AC To AAG-5).  
For the Respondents : Mr. K.M. Joseph, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 23-01-2025**

In the instant L.P.A., appellants-State have assailed the order of the learned Single Judge dated 20.11.2018 passed in C.W.J.C. No.10990 of 2013.

2. Co-ordinate Bench passed the following order on 22.10.2024:

**“Re:I.A. No.02 of 2020**

Heard Mr. Alok Ranjan (AC to AAG-5), learned counsel for the appellants and Mr.



K.M. Joseph, learned counsel for the Respondents.

2. Learned counsel appearing for the appellants/applicants has mainly contended that the State Government has taken a policy decision dated 21.08.2007 by which ban was imposed on the appointment to the post of Assistant Teacher, despite which the concerned Minority Institution has appointed the original petitioner/Respondent during the period of said ban. It is further submitted that the original petitioner/Respondent, by filing Interlocutory Application, challenged the said decision. However, while passing the impugned order, learned Single Judge did not specifically set aside the said decision and thereafter directed the present appellant/original respondent to take appropriate decision with regard to the approval of the service of the petitioner.

3. Learned counsel for the appellants/applicants, therefore, urged that the matter requires consideration and, therefore, this matter be heard finally at admission stage and till then, the impugned order be stayed.

4. On the other hand, learned counsel appearing for the present opponent/original petitioner has submitted that the original petitioner was appointed on the vacant sanctioned post after following due procedure and, therefore, it is



not open for the present appellant/original respondent to deny appointment against the sanctioned post. Learned Single Judge, therefore, has rightly passed the impugned order. Learned counsel submits that no interference is required in the present appeal.

5. Having heard learned counsels appearing for the parties and having gone through the materials placed on record, it would emerge that the advertisement was issued for the post of Assistant Teacher in the concerned Minority Institution. The original petitioner was appointed after following due procedure. The said aspect is not in dispute. However, in the counter-affidavit filed by the original respondent No.3, it has been pointed out that on 21.08.2007, the Government has imposed ban on the appointment. The copy of the said policy decision is placed on record at page 8 of the counter-affidavit. Thus, it appears from the record that the original petitioner challenged the said policy decision by filing separate Interlocutory Application. We have gone through the impugned order passed by the learned Single Judge. *Prima facie*, it appears that the learned Single Judge has not quashed and set aside the policy decision, despite which the direction has been issued to the present appellant/original respondent to grant



approval. We are of the view that matter requires consideration.

6. Learned counsel for the respondent no.1/original petitioner waives service of notice on behalf of the present opponent/original petitioner.

7. Re-notify this matter on 03.12.2024. Till next date of hearing, the impugned order passed by the learned single judge, is hereby stayed.

8. Accordingly, I.A. No.02 of 2020 stands allowed.”

3. Core issue involved in the present lis is whether appointment of respondent no.1-Smt. Sangam Srivastava to the post of Assistant Teacher in the Minority Institution is in order or not?

4. Respondent no.1-Smt. Sangam Srivastava was appointed on 31.07.2012 after following due procedure by the Minority Institution. Appointment of respondent no.1-Smt. Sangam Srivastava was required to be approved by the State Government and it was not undertaken by the State Government, resultantly, State Government has taken a decision that such selection and appointment of the respondent no.1-Smt. Sangam Srivastava is contrary to the Government Policy dated 21.08.2007 by which there was a ban imposed for appointment



to the post of Assistant Teacher. The same has not been taken note of by the Minority Institution. For non-approval of her appointment by the State Government, she has approached this Court in filing C.W.J.C. No.10990 of 2013. The learned Single Judge has proceeded to pass order on 20.11.2018, while allowing the petition (C.W.J.C. No.10990 of 2013) of respondent no.1-Smt. Sangam Srivastava. Hence, the present L.P.A. on behalf of the appellants-State.

5. Learned counsel for the appellants-State submitted that Minority Institution while processing the selection and appointment to the post of Assistant Teacher and so also appointing respondent no.1-Smt. Sangam Srivastava are contrary to the policy decision of the State Government dated 21.08.2007. In such an event, appellants-State should have initiated action against the Minority Institution and so also cancellation of her appointment to the post of Assistant Teacher in the year 2013 as and when they were aware of the alleged illegal selection and appointment of respondent no.1-Smt. Sangam Srivastava and simultaneously appellants-State should have initiated necessary proceedings against the Minority Institution. Both the proceedings have not been undertaken. Resultantly, respondent no.1-Smt. Sangam Srivastava continued



to work and even to this day, she is working. However, it is learnt that she has not been paid salary attached to the post of Assistant Teacher from the date of her appointment. Extending service and monetary benefits to the respondent no.1-Smt. Sangam Srivastava is not the subject matter of C.W.J.C. No.10990 of 2013. Be that as it may, what is the issue is whether her appointment is required to be approved by the State Government or not? It is to be noted that for no fault on the part of the respondent no.1-Smt. Sangam Srivastava, she cannot be penalized after these many years. It is to be noted that even on this day, there is no iota of material evidence to the extent that Minority Institution has cancelled her selection and appointment or by the appellants-State. In other words, she has been continued. It is to be noted that she is over age for a fresh recruitment as on this day. Therefore, for no fault on her part, whatever action taken by the Minority Institution insofar as selection and appointment after due process of law, the same shall not be nullified in view of the fact that there is inaction on the part of Minority Institution and the appellants-State. Therefore, appellants-State have not made out a case so as to interfere with the order of the learned Single Judge dated 20.11.2018 passed in C.W.J.C. No.10990 of 2013. Insofar as



extending service and monetary benefits to the respondent no.1- Smt. Sangam Srivastava is concerned, she is at liberty to approach the concerned authority or a Minority Institution. In this regard, State-Appellate Authority and Minority Institution have to resolve her issue relating to extending service and monetary benefits with reference to her application or representation to be submitted and it is to be decided within a reasonable period of six months from the date of receipt of this order. If there is default on the part of Minority Institution, State may fasten financial liability on the Minority Institution. In this regard Minority Institution shall be given ample opportunity of hearing, before passing any adverse order if any.

6. With the above observations, the present L.P.A. stands dismissed.

**(P. B. Bajanthri, J)**

**( Sunil Dutta Mishra, J)**

P.S./-

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