

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.283 of 2022

In

Civil Writ Jurisdiction Case No.5947 of 2020

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1. Sunil Kumar, Son of Krishna Prasad, Resident of Mohalla-Gandhi Nagar, P.O.-Jehanabad P.S.-Jehanabad, District-Jehanabad.
 2. Ranjit Kumar, Son of Satendra Prasad Yadav, Resident of Village-Mayapur, P.S.-Goh, District-Aurangabad.

... .. Appellant/s

Versus

1. Union of India through Principal Secretary, The Ministry of Education, Shastri Bhawan, New Delhi.
2. Central Board of Secondary Education through The Chair Person, Shiksha Kendra-2, Community Centre, Preet Vihar, New Delhi.
3. Secretary, The Central Board of Secondary Education, Shiksha Kendra-2, Community Centre, Preet Vihar, New Delhi.
4. President, DAV School Managing Committee, Chitra Gupta Road, New Delhi-55.
5. Regional Officer, DAV Public Schools Bihar Zone II, Cantt. Area, Gaya.
6. Assistant Regional Officer, Lalganj Itari Road, Buxar.
7. Head Master, DAV Public School, Near BMP Campus, Nandan Dera, Dumraon, Buxar.
8. The State of Bihar through Principal Secretary, Department of Human Resources, Government of Bihar, Patna.
9. District Education Officer, Buxar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajesh Kumar Singh, Advocate
For the UOI	:	Mrs. Kanak Verma, CGC
For Respondents 2&3	:	Mr. V.K. Tripathy, Advocate
For the State	:	Mr. Sushil Kr. Singh, AC to AAG-10

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 23-09-2025

The present *intra* court appeal has been preferred
against the judgment dated 13.12.2021 passed by the learned



Single Judge in CWJC No. 5947 of 2020, whereby the writ petition filed by the appellants against the order dated 01.12.2019 of the Director, DAV College Managing Committee has been dismissed.

2. The brief facts giving rise to the present appeal is that an advertisement was issued in the year 2013 for appointment to the post of Computer Teacher in DAV Public Schools and, in pursuant thereto, the appellants applied for the same having the requisite qualifications. On the basis of a written examination and interview, the appellants were selected for the said post and joined the same on 01.07.2013. Both the appellants continued to be in service till 31.03.2020. Further, the appellants became regular TGT/PRT/Computer Teacher with effect from 01.07.2019 *vide* letter dated 09.08.2019 issued by the Director, DAV College Managing Committee. By letter dated 15.10.2019 issued by the DAV College Managing Committee, New Delhi (hereinafter referred to as DAV CMC), a circular was issued deciding that the incumbent appointed to any posts should fulfill the minimum qualification as prescribed by the CBSE besides B.Ed. from a recognised institution by NCTE. Thereafter, letter dated 01.12.2019 was issued by the Director mentioning that the Computer Teachers should have



B.Ed qualification apart from a valid computer degree and, in view of the said letter, a letter dated 01.12.2019 was issued to the petitioners that their services will get discontinued with effect from 01.04.2020 as they do not possess B.Ed. degree. Appellants were given grade pay and, to this effect, salary statement was supplied to them for the months of April 2019 to January 2020. Against the letter dated 01.12.2019, the appellant No. 1 filed an application before the Director PS II DAV CMC, New Delhi. However, the appellant received no response on the same which went unheeded and no information was given by the respondents in this regard.

3. The learned Single Judge, after hearing both the parties, had dismissed the writ petition with a liberty to the appellants to resort to the appropriate forum. The learned Single Judge held that the grievance of the petitioner was against the private institution/ management and it will not fall under Article 12 of the Constitution of India and, therefore, the writ petition is not maintainable under Article 226 of the Constitution of India.

4. The learned counsel for the appellants submitted that the DAV College Managing Committee would be included in the definition of Article 12, as the institution/organization in issue is being funded by the appropriate government, and the



learned Single Judge had wrongly passed the impugned Judgment without considering this fact.

5. The learned counsel for the respondents vehemently contended the argument of the appellants, and stated that the appellants have nothing on record to show that the schools being run by the DAV CMC are funded by the appropriate government. The learned counsel for the respondents further submitted that the appeal is devoid of any merits and the order of the learned Single Judge requires no interference.

6. The limited issue present before this Court is that whether DAV CMC would be included in the definition of 'State' under Article 12 or not, consequently if a writ under Article 226 would be maintainable or not.

7. After going through the facts and material on record in present case, the DAV Public Schools are managed by the DAV CMC which is a private organization/trusts. The organization is a non-governmental organization which is registered under the Society Registration Act. The schools being run and managed by the DAV CMC are, therefore, private schools which are unaided minority schools. Further, no material have been put on record which would show that the



said schools are receiving any government aid. The schools are simply affiliated to CBSE but have no involvement of government with respect to its administration or financial aid by the appropriate government. As such, the DAV CMC and the schools run by the DAV CMC would not be a 'state' or 'an instrumentality of state' under Article 12 of Indian Constitution.

8. The Hon'ble Supreme Court in **Satimbla Sharma v. St Paul's Senior Secondary School**, reported in **(2011) 13 SCC 760** has held that the private unaided minority schools are not State within the meaning of Article 12 and further held that the employment contracts between the employees and school management do not fall within the ambit of 'public law' and thus could not be entertained by the Court in writ jurisdiction. The relevant paragraphs of the judgment are reproduced as under: -

"17. Moreover, unaided private minority schools over which the Government has no administrative control because of their autonomy under Article 30(1) of the Constitution are not State within the meaning of Article 12 of the Constitution. As the right to equality under Article 14 of the Constitution is available against the State, it cannot be claimed against unaided private minority schools. Similarly, such unaided private schools



are not State within the meaning of Article 36 read with Article 12 of the Constitution and as the obligation to ensure equal pay for equal work in Article 39(d) is on the State, a private unaided minority school is not under any duty to ensure equal pay for equal work.....

23. We also do not think that the Court could issue a mandamus to a private unaided school to pay the salary and allowances equal to the salary and allowances payable to teachers of government schools or government-aided schools. This is because the salary and allowances of teachers of a private unaided school is a matter of contract between the school and the teacher and is not within the domain of public law.”

9. Further even if the schools receive aid from the appropriate government, the managing committee would not fall within the definition of state under Article 12. The same has been held by the apex court in **St. Mary's Education Society v. Rajendra Prasad Bhargava**, reported in **(2023) 4 SCC 498**. The relevant paragraph of the judgment is reproduced as under:-

“65. In Trigun Chand Thakur, the appellant therein was appointed as a Sanskrit teacher and a show-cause notice was issued upon him on the ground that he was absent on the eve of Independence day and Teachers Day which resulted into a dismissal order passed by the Managing Committee of the



private school. The challenge was made by filing a writ petition before the High Court which was dismissed on the ground that the writ petition is not maintainable against an order terminating the service by the Managing Committee of the private school. This Court held that even if the private school was receiving a financial aid from the Government, it does not make the said Managing Committee of the school a “State” within the meaning of Article 12 of the Constitution of India.”

10. In view of the facts and materials on record, the discussions made above, and the decisions of the Hon’ble Supreme Court as referred above, above, we are of the view that the order of the learned Single Judge requires no interference.

11. The present appeal is, accordingly, dismissed.

12. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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