

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18445 of 2021

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Mahesh Kumar Pandit S/o Sheo Shankar Pandit, Resident of Village-
Mohiuddinagar, P.S.- Mohiuddinagar, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The Principal Secretary, Department of Education, Government of Bihar,
Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer -cum-Secretary, Zila Parishad, Madhyamik
Shikshak Niyojan, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Ranjan, Advocate Mr. Binit Kumar, Advocate
For the Respondent/s	:	Mr. Madhaw Prasad Yadaw (Gp23) Ms. Meera Singh, AC to GP 23

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 24-04-2025

Heard Mr. Rakesh Ranjan along with Mr. Binit
Kumar, learned counsels appearing on behalf of the petitioner
and Mr. Madhaw Prasad Yadaw, learned GP 23 along with Ms.
Meera Singh, learned counsel for the State.

2. Petitioner has *inter alia* prayed for following
reliefs in the paragraphs No.1 of the writ petition:-

*“That this is an application on behalf of
the above named petitioner to issue an appropriate
writ(s), order(s), or direction(s) particularly in nature
of certiorari to set aside the order dated 16.03.2020
contained in memo no.1809 passed by the Director,
Secondary Education, Government of Bihar, Patna,
whereby and under the authority concerned pleased to
reject the petition of the petitioner to reinstate him in
the service as the Assistant Teacher in the Secondary
School under the District Board in the District*



Samastipur, thus thereafter direct the Respondent authorities to pay the petitioner all the consequential benefits as he would be entitled to when he could not have been illegally and arbitrarily removed from the service and/or grant any other equitable relief(s) befitting in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner obtained Shiksha Visharad degree, which is equivalent to Intermediate degree, from Hindi Sahitya Sammelan, Allahabad and he was given provisional certificate by the Hindi Sahitya Sammelan, Allahabad. Based on the said certificate, the petitioner was appointed by the Executive officer of District Board as a Secondary Teacher and he, accordingly, joined on 06.12.2006. However, the District Education Officer, Samastipur -cum -Secretary District Board, Secondary Teachers Employment Samastipur terminated the service of the petitioner *vide* order dated 14.06.2008 on the ground that the degree of Visharad obtained by the petitioner from Hindi Sahitya Sammelan, Allahabad is not equivalent to B.A. and B.Ed degree. Thereafter, the petitioner filed appeal before the District Teachers Appellate Authority, Samastipur *vide* Appeal No.01 of 2015 and the same was disposed of *vide* order dated 18.01.2016. Thereafter, the petitioner filed appeal against the order dated 18.01.2016 before the State Teachers Appellate Authority, Bihar



bearing Appeal No.95 of 2018 which was disposed of *vide* order dated 21.06.2019 with following operative observation:

“x x x x x Having regard to the peculiar facts and circumstances of the case, this Court while disposing of the appeal permits the appellant to file a detailed representation before the Respondent – Director, Secondary Education, whereafter the Respondent- Director shall take an appropriate decision in respect of the employment or continuity in the employment of the appellant in accordance with law but after affording an opportunity of hearing to the appellant. The Court expects that consideration of the matter is concluded by the said respondent within eight weeks of the filing of the representation along with a copy of the present order.”

4. The petitioner moved before the Director, Secondary Education and Director though observed that as per provision of Rule 4(ka)(iii) of the Bihar Zila Parishad Secondary Teachers and Higher Secondary Teachers (Employment and Service Conditions) Rules, 2006 at the time of appointment, there was no requirement of technical degree like DELED or B.Ed, however, he has not interfered with the termination order contained in Memo No.182 dated 14.06.2008 on the ground that provisional certificate issued by the Hindi Sahitya Sammellan, Allahabad is not recognized by the Education Department, Government of Bihar.

5. The petitioner further submitted that the case of the petitioner is covered by order dated 11.07.2019 passed in CWJC No.16939 of 2018. In the said writ petition, the



grievance of the petitioner was non-payment of salary, despite he was continuing as a teacher on the pretext that degree obtained from Hindi Sahitya Sammellan, Prayag Allahabad is invalid. This Court allowed the said writ petition on the ground that the degree has been made invalid from 25.08.2008 after the petitioner of the said writ petition was appointed in the year 2006. On the basis of the degree having been invalidated with retrospective effect, i.e. prior to 25.08.2008, the same according to the petitioner, cannot be a ground for his termination and that too without affording the petitioner opportunity to send him along with the other teachers, who had also not undergone training and were not having DELED or B.Ed degree at the time of their admission.

6. A counter affidavit has been filed on behalf of respondent no.4, the District Programme Officer, Secondary Education, Samastipur. It has been stated that Hindi Sahitya Sammellan, Allahabad was not authorized to conduct examination *vide* departmental order contained in Memo No.1498 dated 20.11.2008. It has been stated in paragraph no.12 of the counter affidavit that “the Court based on the aforesaid discussion finds it difficult to issue any mandamus to the State Government compelling it to recognize the degree of



Shiksha Visharad as equivalent to B.ed and consequently issued directions for considering the candidature of the petitioners”. In view of that, the Director has shown his inability to consider the case of the petitioner and did not revoke his termination order in light of departmental order dated 16.03.2020, which has been brought on record by way of Annexure A to the counter affidavit, and uphold the termination order of the petitioner. Learned counsel further submitted that on the degree of Visharad, which is equivalent to Intermediate, granted by Hindi Sahitya Sammelan, Prayag, Allahabad, a person cannot be appointed as Secondary Higher Secondary Teacher under schools of District Board.

7. Heard the parties.

8. Before I proceed to discuss on merit, I find it apt to reproduce Rule 4(ka)(iii) of Rules 2006 which is as under:

“राष्ट्रीय अध्यापक शिक्षा परिषद् अधिनियम लागू होने के पूर्व मान्यता प्राप्त प्रशिक्षण संस्था से बी०एड० अथवा अधिनियम लागू होने के बाद राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा मान्यता प्राप्त प्रशिक्षण संस्था बी०एड० की डिग्री।”

9. It has been admitted by the State that at the time of appointment pursuant to Rules, 2006 there was no requirement of having certificate like DELED which is required for teacher's appointment to teach Classes I to 5 or BEd degree for teachers to teach Classes 6 to 8 or thereafter or higher class.



Large scale appointment was made by the State Government. The State Government became conscious of the mandate of Right to Education, which requires qualified teachers and found that the teachers who were not trained teachers were required to undergo training. Accordingly, the teachers were sent for training during the said period and after coming of the Right to Education Act, 2009, the training was made compulsory and as on the date, the cut off date has been fixed as 31.03.2019 as has been discussed by the Apex Court in case of **Jaiveer Singh and others Vs. State of Uttarakhand and Ors.** reported in **BLJ 2024(1) SC.**

10. Observation of the Apex Court in paragraph no. 23 of the ***Jaiveer Singh (Supra)*** judgment finds relevance in the present case also, which *inter alia* is as follows:

“23. It is thus clear that all such teachers working in either Government/Government Aided/Unaided Private Schools, were required to acquire the minimum qualifications by 31st March 2019 or they would face dismissal from service. It appears that it was decided by the Central Government to provide a window for all such teachers. A perusal of the said communication would reveal that various directions were issued so that lakhs of teachers, who were untrained, get the requisite qualifications prior to 1st April 2019. The communication addressed by the Director, Elementary Education, Uttarakhand dated 8th September 2017 to the Chief Education Officer and District Education Officer, Uttarakhand would further clarify this position.”

11. I find that if the State has come out with



notification holding that Hindi Sahitya Sammellan, Allahabad was not authorized to conduct Shiksha Visharad degree, which according to the petitioner is equivalent to BEd and degree obtained from Hindi Sahitya Sammellan, Allahabad cannot be made a ground to terminate the petitioner, who was appointed pursuant to Rules, 2006 and at the relevant time, there was no requirement of DELED or BEd degree, the State was responsible to send the petitioner at the relevant time for obtaining the training degree but instead, the authority concerned has terminated the petitioner from retrospective date on the basis of said degree, which has been recognized equivalent to Intermediate in L.P.A. No. 28 of 2010. This Court *vide* order dated 11.07.2019 passed in CWJC No.16939 of 2018 in similar circumstances, had allowed the said writ petition. I find it apt to quote the observation made therein, which is as under:

“In view of the above, the Court does not find any justification to approve the action of the respondent holding the degree obtained from Hindi Sahitaya Sammelan, Prayag, Allahabad before 2006 as invalid. The same cannot be read with retrospective effect and invalidate the appointment of the petitioner made prior to 25.8.2008.

Accordingly, the writ petition is allowed. The respondents are directed to ensure payment to the petitioner with immediate effect.

With the aforesaid, the writ petition stands disposed of.”

12. In view of the discussions made in above



paragraphs, the present writ petition stands disposed of. The impugned order contained in Memo No.1809 dated 16.03.2020 passed by the Director, Secondary Education is hereby set aside and quashed.

13. Interlocutory Application(s), if any, also stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.04.2025
Transmission Date	NA

