IN THE HIGH COURT OF JHARKHAND AT RANCHI

Civil Review No. 18 of 2024

Kuldip Kumar Sengupta, Aged about 62 years, Son of Late N.N. Saha, Residence of Village & P.O. & P.S. - Tamar, District- Ranchi and posted as an Assistant Teacher in Project Girls High School, Tamar, Post & P.S. - Tamar, District - Ranchi

… … Respondents/Petitioner

Versus

1. The State of Jharkhand through Principal Secretary School Education and Literacy Department, Govt. of Jharkhand, having its office at Project Building, P.O.- Dhurwa, P.S.- Jagarnathpur, Dist.- Ranchi, Jharkhand.
2. Principal Secretary, School Education and Literacy Department, Govt. of Jharkhand, having its office at Project Building, P.O. -Dhurwa, P.S. - Jagarnathpur, Dist.- Ranchi, Jharkhand.
3. The Director (Secondary Education), Department of School Education and Literacy, Telephone Bhawan, P.O. and P.S. Dhurwa, District-Ranchi.
4. The District Education Officer, Ranchi having its office Near Civil Court Complex, P.O.- G.P.O., P.S.- Kotwali, District- Ranchi.

… … Appellants/Respondents

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Ms. Swati Shalini, Amicus Curiae
: Mr. Kuldip Kumar Sengupta, In-person
For the Respondents : Mr. Mrinal Kanti Roy, GA-I

C.A.V. On 29.10.2026 **Pronounced on 25.11.2026**

Per, Anubha Rawat Choudhary, J.

1. This application has been filed for review of the judgment dated 19.01.2024 passed in L.P.A. No. 379 of 2019.

2. The L.P.A. No. 379 of 2019 was filed by the State of Jharkhand and its authorities and was decided with analogous cases, all filed by State of Jharkhand and its authorities vide judgment dated 19th January, 2024 whereby the writ court's judgement and order dated 05th September 2018 passed in W.P.(S) No. 921 of 2011 and analogous cases have been set-aside. The original writ petitioner is the review petitioner before this Court.

3. <u>Case of the petitioner seeking review of judgment dated 19.01.2024 passed in L.P.A. No. 379 of 2019</u>

A. Amongst the grounds for review, it has been stated that the Division Bench has not stated anything regarding the petitioner's case in the judgment and has not considered the several written arguments and the status of the petitioner as a subject teacher as per the staffing patterns of the policy decision of the government and that the petitioner had also completed B. P. Ed. teacher's training, which is equivalent to the degree of B.Ed., as per several decisions of the Hon'ble Patna High Court, and therefore, the managing committee of the school had given additional charge to the petitioner as a physical trained teacher.

B. The Division Bench did not consider letter no. 142, which was published on 04.02.1989 [paragraph no.(iv)], which clearly defined minimum eligibility for recognition/regularization of services of teachers as "Graduate Trained". It has also been asserted that the said letter dated 04.02.1989 clearly mentions that the appointment of a person in connection with the subject should be from his or her subjects in graduation, and in this case, the petitioner was appointed as teacher of Geography.

C. Another ground for review is that the petitioner fully fulfils the minimum eligibility criteria clearly defined in letter no. 142 dated 04.02.1989. The Division Bench failed to consider that the petitioner was graduate-trained and was eligible for recognition/regularization of service since his date of appointment on 19.05.1986, which was much prior to 04.02.1989, on which day the eligibility criteria were defined by the State Government in letter No. 142 dated 04.02.1989.

D. A large number of L.P.As. were being heard analogously, and out of them, 32 cases filed by the State were withdrawn by the State in terms of the resolution dated 22nd November, 2023, but the State did not consider the case of the petitioner at the time of withdrawal of its L.P.As., and therefore the action of the State is violative of Article 14 of the Constitution of India. The said

resolution dated 22nd November 2023 was passed during the pendency of the L.P.As. and was in respect of the resolution memo No. 1272 dated 25.04.2018; by the resolution dated 22nd November 2023, the resolution dated 25.04.2018 was partly amended, on account of which relief was granted to many teachers. On 22nd November 2023, the State had withdrawn the aforesaid L.P.As. of the teachers belonging to Scheduled Castes, Scheduled Tribes and all categories of female teachers and, as per the petitioner, the basis of such withdrawal of the LPAs was the same letter, that is, letter No. 142 dated 04.02.1989 [paragraph (iv)].

E. Another ground for seeking review is that, in view of the resolution memo no. 913 dated 01.04.2022, which was a decision taken with respect to the project high schools (1981-82 - 1st phase), whereby the services of physically trained teachers (B. P. Ed.) posted as subject teachers, as per the staffing patterns of the government's policy decision, have been recognized by the government, the present petitioner, who is a physically trained teacher, though appointed as a geography teacher, is also entitled to the same relief.

F. ***I.A. No. 10645 of 2026***

An interlocutory application, being ***I.A. No. 10645 of 2026,*** was filed on 30.07.2026 seeking permission for filing additional documents whose details have been mentioned in paragraph 9 of the interlocutory application, which is quoted as under:

> *"9. That the following documents are sought to be taken on record: -*
> ***(i)*** *Government Resolution, School Education and Literacy Department, Government of Jharkhand, Letter no. 913 dated 01.04.2022.*
> ***(ii)****Government Resolution, Department of School Education and Literacy, Government of Jharkhand, Letter no. 3123 dated 22.11.2023.*
> ***(iii)*** *Letter issued by the Learned Advocate General, Jharkhand, dated 20.11.2010, relating to Project High Schools."*

It has been asserted in the interlocutory application that the government resolutions contained in letter no. 913 dated 01.04.2022 and letter no. 3123 dated 22.11.2023 were issued after the filing of the Letters Patent Appeal and therefore could not be produced before the Hon'ble Division Bench at the relevant time. It has also been stated therein that the documents sought to be brought on record through the interlocutory application have a direct and substantial bearing, as they relate to the absorption/regularisation of physical education teachers (B.P.Ed.).

G. On 07.08.2026 itself, the learned counsel for the respondent sought time to respond to the interlocutory application. A reply to the same has been filed by way of counter affidavit dated 08.10.2026, but the issuance of the aforesaid letters for the years 2022 and 2023 is not in dispute, and the counter affidavit has been filed touching upon the merits of the review petitioner's case.

H. The learned *Amicus Curiae* as well as the petitioner in person have submitted that the petitioner has worked in the Project High School for more than 35 years and was fully qualified for absorption and even in terms of the decisions annexed to the interlocutory application being I.A. No. 10645 of 2026, which were not brought on record in the L.P.A., the petitioner is entitled for absorption/ regularization.

I. It has been submitted during the course of the hearing that, if considered, resolution memo no. 913 dated 01.04.2022, as contended in the Annexure-5 series, would cover the case of the petitioner, and the petitioner would be entitled to absorption/regularisation. The learned amicus curiae has also pointed out that persons at sl. Nos. 2, 5 and 7, as contained on page no. 10 of the Annexure-5 series of the interlocutory application, had similar educational training to that of the petitioner and have been regularised, but the petitioner has been left out.

4. Case of the respondent state opposing the review petition

I. No ground for review has been made out. The ground for rejection of the petitioner's candidature was never set aside by the learned Writ Court, and despite this, the learned Writ Court issued directions that were not only contrary to the Alam Committee's report but also to the policy decisions of the State Government. He further submitted that, ultimately, the Writ Court's directions were set aside by the L.P.A. Court.

II. It has been specifically asserted in the counter affidavit that after the Full Bench decision of Hon'ble Patna High Court as well as the judgment of the Hon'ble Supreme Court vide order dated 03.01.2006 passed in Civil Appeal No. 6626-6681 of 2001 directing individual cases of teaching and non-teaching staff of Project Girls High School to be examined by a three-men committee, the committee was constituted vide notification dated 20.07.2006 who examined the case of all the teachers and the committee recommended recognition of the services of those teachers who fulfilled the requisite essential qualifications prescribed for appointment to the post of teachers.

III. It has been asserted that, so far as the petitioner is concerned, the three-member committee duly examined the appointment of the writ-petitioner, who was appointed by the managing committee, and found that the petitioner did not satisfy the requisite qualifications; therefore, no recommendation was made for recognition of the petitioner's services.

IV. It has also been asserted in the counter-affidavit that during the pendency of the writ petition, the State was directed to formulate and place on record an appropriate policy decision with regard to absorption of the employees of the project schools, pursuant to which the State of Jharkhand took a policy decision vide resolution dated 25.04.2018 providing for modalities relating to such absorption. However, the writ court allowed the writ petition preferred by the petitioner vide order dated 05.09.2018

passed in W.P.(S) No. 5903 of 2016 along with other analogous cases.

V. It has been asserted in the counter-affidavit that fixation of the cut-off date falls exclusively within the domain of the Government, as it amounts to a conscious policy decision. It further asserts that the resolution dated 25.04.2018 was formulated and issued after considering all relevant factors, including the judgment of the Hon'ble Supreme Court and the Alam Committee report, and was essentially a matter of policy. It is also asserted that the Alam Committee report was never assailed or challenged in the writ petition in its entirety, and consequently the cut-off date of 30.09.2007 prescribed for possessing the requisite qualification for absorption remained unaltered and binding upon the concerned persons. Since the petitioner failed to possess the requisite qualification on or before the cut-off date, he could not be absorbed or regularised in service, and therefore the claim of the petitioner is not legally sustainable. The petitioner did not possess the requisite B.ed. qualification on or before the cut-off date, that is, 30.09.2007, which was a mandatory and indispensable condition for absorption.

VI. A specific statement with regard to the facts of the case of the petitioner has been mentioned in paragraph 13 of the counter affidavit, which is as follows:

> *"**13.** That it may be stated that before the Three Men Alam Committee, it was placed on record that the petitioner was appointed as an Assistant Teacher on 19.05.1986 and that, at the time of his appointment, he possessed the qualification of Graduation and had also produced a Physical Training Certificate issued by Amravati University, Amravati; that the petitioner had, however, been appointed against the post of Geography Subject Teacher, for which the said Physical Training qualification was not applicable or sufficient to satisfy the prescribed eligibility criteria, and accordingly, upon due consideration of the relevant facts and qualifications, the Three Men Alam Committee did not recommend*

recognition of his services for the post of Assistant Teacher."

Background of the case

5. The writ petition was filed by the petitioner challenging the rejection of the petitioner's claim seeking recognition by the three-member Alam Committee. At the stage of the writ proceedings, a large number of writ petitions, including the present petition, were clubbed, as a common question was involved in all the writ petitions. The batch of cases related to Teaching and Non-Teaching Staff of Project Girls' High Schools. The writ court recorded in its judgment that the petitioners therein mainly sought appropriate directions to the concerned authorities to recognise/regularise their services by the Government following the take-over of the private schools where the petitioners had been working and discharging their duties, or had retired after attaining the age of retirement.

6. The writ court referred to the State Government's policy decision to establish Project Girls High Schools, one in each Block of every District of the State, vide office order as contained in memo no. 1115 dated 27.05.1981, and a total of 650 schools were to be opened in a phased manner, which was decided to be done as follows: -

(a) 1981-82 – 150 schools - 1st phase Project Girls' High Schools
(b) 1982-83 – 200 schools – 2nd phase Project Girls' High Schools
(c) 1983-84 – 200 schools – 3rd phase Project Girls' High Schools
(d) 1984-85 – 100 schools – 4th phase Project Girls' High Schools

A total of 150 schools were opened in the 1st phase by the government, but the 2nd-phase schools could not be opened in 1982-83. Functional schools were, however, selected in the year 1984-85, in view of letter dated 25.01.1985, by a Three Men Committee of the State Government. ***The learned writ court recorded that the matter before it related to those cases, which were referred to as 2nd phase schools.***

The employees of 1st phase schools were already absorbed, but they were only the trained teachers and non-teaching staff. In the case of

untrained teachers, a decision was taken on 14.04.1987 that the services of both trained and untrained teachers must be recognised and their services be absorbed, and further, these untrained teachers will be paid salary in the untrained scale.

7. With respect to schools of the 2nd phase, in the year 1989, a policy decision was taken, vide office order as contained in letter no. 142 dated 04.02.1989, for absorption of services of employees to the post of Assistant Teacher, who were initially appointed in Project Schools of 2nd phase schools which were selected on recommendation of Three Men Committee, in accordance with the conditions mentioned therein.

8. The aforesaid letter no. 142 dated 04.02.1989 was considered in the Full Bench decision dated 07.12.1999 of the Hon'ble Patna High Court, reported in ***2000(1) 287 (FB) [Project Uchcha Vidyalaya Shikshik Sangh versus State].*** It has been recorded in the Full Bench judgment that the 1st phase of the schools are those which were established by the State Government itself, and after the establishment, not only were the school buildings constructed out of its funds, but the management and control of such schools also remained with the State Government throughout. It appeared that since the State Government was not in a position to establish all the schools of its own, it was decided in the financial year 1984-85 to select some of the High Schools privately established and managed by local people as "Project Schools" which formed the schools in the 2nd phase, which were subject matter of consideration in the aforesaid Full Bench judgment.

In the said judgment itself at paragraph 26, the Hon'ble Full Bench has considered the two or three cases before them where the petitioners were claiming their regularization/recognition of services since they had passed the physical training examination and therefore, according to them, they possessed the minimum qualification of trained graduate as required under notification no. 142 dated 04.02.1989. The plea of such candidates was rejected vide paragraph 27 of the judgment as the Hon'ble Full Bench had expressed that "trained graduate", as prescribed under circular no. 142 dated 04.02.1989, would mean a candidate having a bachelor's degree in the subject of education in

addition to a bachelor's degree in any of the subjects of Arts or Science or Commerce. But in case there is requirement of physical trained teacher as per staffing pattern notified in circular dated 12.10.1982, the claim of such teachers can be considered and such claim can be considered only if posts of physical trained teachers are available in the project schools. Paragraphs 26 and 27 of the Full Bench of judgment are quoted as under:

> *"**26.** In the abovementioned group of cases, there are 2-3 cases where petitioners are claiming their regularisation/recognition of services since they had passed the physical training examination. Therefore, according to them, they possessed the minimum qualification of trained graduate as required under circular no. 142, dated 4th February, 1989. It has been contended that it would appear from letter no. 6066, dated 24th November, 1986, that the State Government had also accepted that physical trained teachers are in the category of trained graduates and, therefore, entitled for appointment to the post of teachers or Headmaster. A reference in this regard was also made to a decision of this Court in the case of Kumar Kant Choudhary v. The District Education Officer, Darbhanga (1979 BBCJ 184). In that case, question for consideration was whether a physical trained teacher was qualified to be considered for the post of Headmaster and Assistant Headmaster in terms of the provisions of Rule 4 of the Bihar High School (Service Conditions) Rules, 1972. It was noticed that having regard to the provisions of the Rules, petitioner of that case was one of the trained graduate teachers of the school as such sufficiently qualified to be considered for the post of Headmaster.*
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> ***27.** In my view, the said decision of this Court rendered in the abovementioned case, or circular no. 6066, dated 24th November, 1986, are with respect to schools of different category. Therefore, it would not be proper to apply the ratio of that case or the provisions contained in the said circular to the teachers of the Project Schools. That apart, as I have already noticed, expression "trained graduate" as prescribed under circular no. 142, dated 4th February, 1989, would mean a candidate having Bachelor's degree in the subject of Education in addition to Bachelor's degree in any of the subjects of Arts or Science or Commerce. But in case there is requirement of physical trained teacher as per the staffing pattern notified in circular no. 705, dated 12th October, 1982, the claim of such teachers can be considered. Because, applicability and scope of the decision of the Government in the abovementioned circular*

or the decision of this Court in the case of Kumar Kant Choudhary v. The District Education Officer, Darbhanga and others (supra) can only be relevant for consideration provided posts of physical trained teachers are available in the Project Schools."

9. The aforesaid judgment of Hon'ble Patna High Court was challenged in Appeal before Hon'ble Apex Court in ***State of Bihar Vrs. Project Uchcha Vidyalaya Shikshak Sangh***, reported in ***2006 (2) JLJR 57***.

10. The Hon'ble Supreme Court considered the circular letter dated 04.02.1989 from paragraphs 56 to 60 as under: -

"56. *We have noticed that there is no dispute that in the years 1982-83 and 1983-84, no school was recognised or established. We have also noticed hereinbefore that one of the conditions for recognition was that the teachers were required to be appointed by the Vidyalaya Sewa Board. In the aforementioned context, the letter dated 4.2.1989 is required to be considered for the purpose of this case.*

57. *Whereas in respect of the schools established by the State 9 posts were sanctioned to the schools which were selected for recognition/taken over through the agency of the three men committee, only 5 posts were sanctioned. It has not been disputed that in the High Schools in question, students are taught from Classes VI to X i.e., five classes. It has also not been disputed that every subject has been categorized in three groups, viz. language groups, humanity group and science group and other teachers were to be appointed accordingly.*

58. *The State is no doubt entitled to lay down qualification or sanction the requisite number of posts. It may also in certain situations provide for relaxation therefrom or lay down such terms and conditions as they may deem fit and proper. It is also permissible for the State to appoint a Screening Committee for the purpose of finding out whether the teachers satisfy the requirements laid down therein. The State is also entitled to fix the age-limit of such teachers. How many teachers were required to be appointed and strength of the teaching staff and the non-teaching staff again is a matter of policy decision of the State. Indisputably, if somebody has any say in this behalf it will be the Bihar Senior School Education Board, a statutory authority who is statutorily enjoined to lay down the criteria for the purpose of recognition of said schools by it. But for all intent and purport this issue has become academic. In view of the fact that the State itself has realized the difficulty which the schools would face if only 5 posts are sanctioned in each school. The Cabinet itself*

realized that like any school run by the Government, it is necessary to have at least 9 teachers even in the Project Schools. The strength of the teachers for such schools has not only been sanctioned, sanction therefor was given with retrospective effect and retroactive operation. Necessary funds were allocated for the said purpose. Although, thus, it was the prerogative of the State to lay down the criteria, the same has been laid down. Therefore, correctness or otherwise of the finding of the High Court that the State was bound to recognize at least 9 teachers in each school, for all intent and purport is now academic.

59. *It is furthermore not in dispute that the State for the first time in its letter dated 4.2.1989 laid down the qualifications for the teachers as also the strength thereof.*

60. *The validity and/or legality of the said government order dated 4.2.1989 was questioned before the High Court. The High Court, as noticed supra set aside the said directions holding that 9 teachers were required to be appointed in each of the schools. This part of the order of the High Court does not require elaborate consideration as the State Government had now sanctioned 4 additional posts with retrospective effect."*

11. The Hon'ble Supreme Court recorded its conclusions from paragraph 74 onwards and directed to form three men committee. However, paragraph 75, 76 to 78, 83 and 90 are quoted as under: -

"75. *It is furthermore necessary to scrutinize as to whether the teaching and non-teaching staff appointed for the said purpose fulfill the criteria in terms of the policy decision of the State or not. Their qualifications laid down under other relevant statutes for the purpose of obtaining permission must also be scrutinized.*

76. *We do not find any merit in the contention raised by the learned counsel appearing on behalf of the Respondents that the principle of equitable estoppel would apply against the State of Bihar. It is now well known, the rule of estoppel has no application where contention as regard constitutional provision or a statute is raised. The right of the State to raise a question as regard its actions being invalid under the constitutional scheme of India is now well recognized. If by reason of a constitutional provision, its action cannot be supported or the State intends to withdraw or modify a policy decision, no exception thereto can be taken. It is, however, one thing to say that such an action is required to be judged having regard to the fundamental rights of a citizen but it is another thing to say that by applying the rule of estoppel, the State would not permitted to raise the said question at all. So far as the impugned circular dated 18.2.1989 is concerned, the State has, in our opinion, a right to support the validity thereof in terms of the constitutional framework.*

77. *Having said so, we must observe that the ultimate decision must be left at the hands of the State. In view of the Cabinet decision dated 25.1.2000, 300 schools are said to have been recognized. We have, however, our doubts as to whether all correct facts have been placed before the Cabinet or not particularly in view of the fact that many of the schools which were established in Chhotanagpur and Santhal Pargana are now in the State of Jharkhand. We have pondered over the matter but we are not very sure as to whether apart from the schools which had been identified by the three-man committee and admittedly recognized by the State, any final decision had been taken as regard recognition or otherwise of the remaining schools by the appropriate authority.*

78*. For the said purpose, we are of the opinion that a committee should be constituted for the said purpose.*

83. *The Committee shall also deal with all such individual cases of the Appellants, as has been directed in para 35 of the judgment of the High Court.*

90. *So far as educational qualification of the teaching staff is concerned, we are of the opinion that having regard to the fact that the limited number of teachers were to be appointed with a view to accomplish a constitutional goal of spreading literacy in the villages, particularly amongst the girls, the standard adopted in Zila Schools or Government schools constituted in urban areas may not be insisted upon, as was observed by the High Court, but keeping in view the fact that it is essentially a Government function, the question as to whether some teachers having B.T. training or training in Physical Education would be allowed to continue in the said Project Schools or not is left to the State, wherefor a decision in a decision in accordance with law may be taken."*

12. In compliance of the direction of the Court, the respondent State sought to constitute a Screening Committee, popularly known as Alam Committee, which submitted its report on 30.09.2007. On scrutiny, several cases were rejected by the Alam Committee. The cases which were selected by the Alam Committee got their absorption, vide Government Notification dated 09.02.2011 and salaries were released in favour of the employees so absorbed w.e.f. 01.01.1989.

13. The three-men committee report, by which, *inter alia*, the claim of the petitioner regarding recognition of his service was rejected and is impugned in this case has been placed on record as Annexure- 1 to the writ petition. During the pendency of the writ petition, the petitioner

had filed one interlocutory application being I.A. No. 4259 of 2018, seeking amendment of the writ petition challenging the resolution as contained in memo No. 1272 dated 25.04.2018 issued by the respondent no.2 of the writ petition. No order was passed in the I.A. No. 4259 of 2018, seeking amendment of the writ petition.

14. However, the writ petition filed by the petitioner was considered and tagged with other cases, and ultimately the writ petition was analogously decided and the pending I.A was disposed of by the final order, *inter alia*, holding that the policy decision was contrary to the aforesaid full bench decision and accordingly certain directions were issued and the writ petitions were allowed. The findings of the learned writ court are from paragraphs 15 to 22 of the judgment and the writ petitions were allowed. However, the directions are quoted as under:

> ***18.*** *In view of the abovementioned facts, the following clarifications/ corrections/ additions are required to be brought in the Notification dated 25.04.2018, by way of bringing appropriate Corrigendum by the State Govt. keeping in view following points:-*
>
> > *(i) The untrained teachers have to be absorbed in the regular services though initially in the untrained scale but with a condition to complete their teachers' training course/B.Ed. course within a stipulated time period to be decided by the Govt. and on successful completion of the said course they may be granted the benefits of trained scale.*
> >
> > *(ii) The post of 'other teachers' (minority language, music, arts, commerce, anyone amongst all on the basis of seniority) has to be accepted as 9th post in the MANAK MANDAL. Further, teachers appointed prior to coming into effect of the letter dated 04.02.1989 and duly appointed by the Managing Committee of the Schools concerned shall be taken care of by giving necessary relaxation as has been done during the absorption of teachers in the 1st phase.*

(iii) The cases where schools are to be closed, the teachers shall be regularized/absorbed by making adjustments in other Government schools on regular basis.

(iv) Such non-teaching staff, whose cases have been rejected by Alam Committee, on the ground that subsequent Govt. appointees were also deputed/appointed on the same post, their services would be absorbed on the same sanctioned post, and the deputies would be adjusted / repatriated to their original cadre.

(v) The Alam Committee's report will not come into the way of absorption of employees, if such cases have been rejected by Alam Committee on the principles contrary to the directions of Hon'ble Patna High Court (FB) passed in Project Uchcha Vidyalaya Shikshak Sangh (Supra.), confirmed by Hon'ble Apex Court and against the principles as being laid down by this Hon'ble Court in the paragraph-17, as also against the directions of the Co-ordinate Benches of this Hon'ble Court in other writ petitions in individual cases.

(vi) All female category teachers and teachers belonging to Harijan, Scheduled Caste / Scheduled Tribe candidates, who are untrained, shall be absorbed.

(vii) In some of the writ petitions there is impugned order of rejection of their candidature for absorption. It is made clear that in all such cases fresh consideration in light of direction given hereinabove shall be made, without being prejudiced or influenced by the earlier order of impugned rejection.

15. L.P.A. No. 138 of 2019 and other analogous cases were filed by the state along with L.P.A. No. 379 of 2019, which relates to the present

petitioner, and the judgment passed by the writ court was set aside vide common judgment dated 19.01.2024, which is under review in this civil review petition.

16. The L.P.A. court recorded the arguments of the state that –

a) the writ Court cannot rewrite the Resolution dated 25th April 2018 by adding some stipulations that shall fall in the realm of the executive powers of the Government of Jharkhand; the state also referred to the reported judgment in *"Project Uchcha Vidya (S.C)"* wherein the Hon'ble Supreme Court held that it is essentially a government function to decide the educational qualification of the teaching staff ;

b) The Government of Jharkhand took a policy decision to fix the cut-off date for possessing the minimum qualification as on 30th September 2007 and, that, fixing of this cut-off date has a valid and reasonable basis and the writ Court could not have exercised its powers under Article 226 of the Constitution to fix a different cut-off date;

c) The report of Alam Committee was submitted on 30th September 2007 and this date has been fixed as cut-off date for acquiring the training qualification;

d) The sanctioned strength of teachers as per the letter no.705 dated 12th October 1982 which was approved by this Court in *"Rabindra Kumar"* has been adopted in the Resolution No.1272 dated 25th April 2018 and the writ Court committed a serious error in law in overlooking a binding decision of this Court and created an additional post of the Assistant Teacher in the Manak Mandal by exercising a power that is not traceable under Article 226 of the Constitution.

17. The L.P.A. court also recorded the arguments of the respondent that –

i. The respondent was seeking regularization of his service on parity with three other untrained teachers who were absorbed as regular teachers in the same school vide government order dated 17th August 2016.

ii. Resolution dated 25th April 2018 contains stipulations that are manifestly unjust and incongruent to reason and, therefore, the writ Court was constrained to exercise its powers under Article 226 of the Constitution to remedy the injustice perpetuated to the teachers like Englesh Dubey.

iii. The learned counsel referred to *"S.N. Mukherjee"*; *"L. Chandra Kumar"*; *"Tantia Construction (P) Ltd."* and *"Rojer Mathew"* to persuade this Court not to interfere with the writ Court's order, having regard to the wide powers and constitutional duty of the writ Court to uphold and enforce the rule of law.

iv. The writ Court pronounced the judgment which is intended

to give benefit to all similarly situated persons and when such a pronouncement is made the objection as to delay and laches on the part of the aggrieved person does not survive.

v. The respondents referred to several decisions of this Court to challenge the conditions in the Resolution dated 25th April 2018 on the ground that those decisions of the Court have attained finality and are binding on the State of Jharkhand. Before the writ Court, the respondents referred to the judgments in *"Project Uchcha Vidyalaya (F.B)", "Project Uchcha Vidya (S.C)", "Sukhdeo Gope", "Om Prakash Gope", "Lakhpat Yadav", "Sarju Prasad Gupta", "Kumud Kumari Srivastavav"* and *"Sarbani Bose".*

vi. The respondents had set up a case that the State of Jharkhand by regularizing Dinesh Pd Singh, Ram Pd. Sah, Sukheo Gope, Arbind Pathak, Sudama Pd., Sitaram, Dinanath Ram, Sukra Nayak, Arun Kumar, Chhunku Sarangi, Rajendra Kumar, Saryu Pd. Gupta, Deopujan Sharma, Bajel Kr. Mrandi, Jagori Sonar, Raghunath Sahu, Pushpavati Tiwari, Shaktidhar Pradhan, Indrajit Pd., Sameri Hansda, H.S. Bagha, Maheshwar Prasad and Tapti Mishra acted in consonance with the Circular dated 12th October 1982 and regularized these teachers who do not have the training qualification.

18. The L.P.A. court considered all the contentions of the parties and recorded the following findings: -

I. The State of Jharkhand being the employer is empowered to decide minimum educational qualification, cut-off date, and to sanction the post of teachers in the Project Schools. Under the Resolution dated 25th April 2018, nine posts in each Project School are sanctioned and the graduate teachers who obtained training qualification by 30th September 2007 shall be eligible.

II. In our opinion, the policy decision taken by the State of Jharkhand laying down certain criteria to regularize the Assistant Teachers cannot be faulted merely because a few persons do not fit the criteria in the Resolution dated 25th April 2018.

III. In the matters of appointment, regularization in service, etc. there can be varied opinions but the writ Court is not expected to sit as an appellate authority thereon and examine the government's decision in this regard. The writ Court could interfere only if the scheme framed by the state is found capricious or not informed by reasons or arbitrary and founded on mere *ipse dixit*.

IV. The Resolution dated 25th April 2018 was a policy decision of the State of Jharkhand.

V. The law is too well-settled that it is not within the domain of the Courts to embark upon an inquiry as to whether a particular policy decision is wise and workable or there could have been a more logical and fairer decision. In *"R. Krishnamurthy"* the Hon'ble Supreme Court held that the Courts in the exercise of their jurisdiction shall not transgress into the field of policy decision. This is a trite law that the writ Court shall not interfere with the policy decision of the executive unless the policy is found arbitrary, unreasonable or unfair. The perversity in the policy and malafide in taking a particular policy decision can also render the policy unconstitutional but the writ Court could not have presumed any such ground in the present case to interfere with the Resolution dated 25th April 2018. The writ Court by issuing a direction to relax the minimum qualification, cut-off date, sanction strength of the teachers, etc. with a further direction to amend the Resolution dated 25th April 2018 transgressed the limits of judicial review.

VI. The directions issued by the writ Court under paragraph no.18(ii) for granting certain relaxations to the teachers who were appointed before 4th February 1989 are seriously flawed in law. The writ Court seems to have completely misinterpreted the judgment in *"Project Uchcha Vidya (S.C)"* wherein the Hon'ble Supreme Court clearly indicated that the Circular dated 4th February 1989 was valid and the State of Bihar was justified in deviating from the previous circulars particularly the Circular dated 27th May 1981. The judgment in *"Project Uchcha Vidyalaya (F.B)"* proceeded on the premise that the untrained teachers had a right to seek appointment and the State Government could not have changed the qualification criteria. This view of the Full Bench of the Patna High Court was not approved by the Hon'ble Supreme Court is easily demonstrable from a reading of paragraph nos. 90 and 91 of the judgment in *"Project Uchcha Vidya (S.C)"*. In fact, the whole basis of the directions issued in the present case under paragraph no. 18 of the writ Court's order is founded on a misconstruction of the judgment rendered by the Hon'ble Supreme Court. There is no binding precedent of this Court which the State of Jharkhand has ignored. This is also not correct to say that the Resolution dated 25th April 2018 was framed contrary to the law laid down therein.In *"Project Uchcha Vidya (S.C)"* the Hon'ble Supreme Court held as under:……

VII. The direction issued by the writ court for regularization of the untrained teachers with a condition that they shall obtain the Teacher's Training/B.Ed. degree within a stipulated period is

contrary to the provisions of the Bihar Nationalized Secondary Schools (Service Condition) Rules, 1983 and the pronouncement in *"Project Uchcha Vidya (S.C)"*. This is a mandatory condition under the Bihar Nationalized Secondary Schools (Service Condition) Rules, 1983 that a person seeking appointment to the post of Assistant Teacher must possess the Teacher's Training/B.Ed. degree at the time of his appointment. There is no provision under the aforesaid Rules to permit a candidate to acquire this qualification after he is appointed as an Assistant Teacher. There is also no power vested in any authority to relax this qualification which is a mandatory educational qualification for appointment to the post of the Assistant Teacher.

VIII. The so-called clarification by the writ Court that 9th post in the Manak Mandal shall fall under the category "other teachers" which would include a teacher for minority language, music, arts, commerce, etc. is also equally unsustainable. In *"Rabindra Kumar"* the Patna High Court held that there shall be only nine posts in the Manak Mandal which would include the Headmaster/Headmistress. However, the writ Court has created 9th post of the teacher in the Project Schools by directing the Secretary of the Department of School Education and Literacy to issue a corrigendum in this regard. In *"Rabindra Kumar"* the Patna High Court has held as under…….:

IX. This is also quite strange that the writ Court has issued a direction for absorption of the Assistant Teachers even if the Alam Committee did not approve the same. In the Alam Committee report, several schools were found closed and some schools were said to have been merged with other existing schools. The report further disclosed that many Assistant Teachers left the school and joined another school. The State of Jharkhand has pleaded that the Project Girls High School Angara was found closed. It is further pleaded that the respondents are untrained teachers who claimed that they were working in the Project Girls High School at (i) Tamar in the district of Ranchi; (ii) Potka and Musabani in the district of East Singhbhum; (iii) Sonuwa in the district of West Singhbhum; (iv) Gopikander and Raneshwar in the district of Dumka; (v) Bhandaria in the district of Garhwa, and; (vi) Tarhasi, Lesliganj and Panki in the district of Palamau. The State of Jharkhand has taken a specific stand that these teachers do not possess the minimum qualification for appointment and are not entitled for a consideration for regularization.

X. In our opinion, the writ Court issued a very unusual direction to ignore the findings of the Alam Committee. ……..

XI. The maxim *"stare decisis et non quieta movere"* which means

"to stand by decisions and not to disturb what is settled" was evolved in the public interest to establish uniformity and certainty in the legal system. The guiding principle behind *stare decisis* is that a decision of the Court which has been followed by the Court and acted upon should not be disturbed even by the appellate or revisional Courts. However, this is also well-settled that the previous decisions should not be followed to the extent that grievous wrongs may result. In *"Maktul"* the Hon'ble Supreme Court indicated that the doctrine of *stare decisis* is not imperative or inflexible and to what extent it is to be applied must be determined by the Court in each case. *"Sakshi"* reaffirms that the doctrine of *stare decisis* gives certainty to law and guides the people to mold their affairs in the future. In *"Sakshi"* the Hon'ble Supreme Court observed as under…….:

XII. We have gone through the decisions referred by the respondents to lay a foundation for parity in the appointment. The writ Court in the aforementioned cases passed the orders of "representation-disposal" and nothing more. However, the writ Court held that the Resolution dated 25th April 2018 being in conflict with previous decisions of this Court required modification. Earl of Halsbury L.C said in *"Quinn"* that a case is only an authority for what it decides……

XIII. The High Courts are constituted not only the Courts of law but also the Courts of equity. However, at the same time, the High Court is required to consider all aspects including the public good at large. In *"Roshanlal Kuthalia"* the Hon'ble Supreme Court observed that equity is the moral dimension of law. In *"Charles K. Skaria"* the Hon'ble Supreme Court observed that equity shall overpower technicality where human justice is at stake. In *"S.S Bola"*. The Hon'ble Supreme Court observed that equity steps in where the law has left yawning gaps. In *"A.P. State Financial Corpn."* the Hon'ble Supreme Court observed that: "Equity is always known to defend the law from crafty evasions and new subtleties invented to evade law". However, the High Court may refuse to exercise its discretionary jurisdiction if the grant of relief would defeat the interest of justice. In *"Prabhu"* the Hon'ble Supreme Court observed that: "It is the responsibility of the High Court as custodian of the Constitution to maintain the social balance by interfering where necessary for the sake of justice and refusing to interfere where it is against the social interest and public good." Even assuming that the above-named Assistant Teachers lacked essential qualifications for appointment, the writ Court could not have applied parity in the appointment of the respondents because

Article 14 of the Constitution carries with it a positive concept and it cannot be invoked for perpetuating illegality. This is a matter of record that the Assistant Teachers who approached the writ Court were appointed between 2nd January 1981 [WP(S) No. 5474 of 2017 corresponding to LPA No. 698 of 2019] to 7th December 1999 [WP(S) No.921 of 2011 corresponding to LPA No. 138 of 2019] and a large number of them were appointed during 1985, 1986, 1987 and 1988.

XIV. This is axiomatic that there is no concept of negative equality envisaged under Article 14 of the Constitution even if an individual or a group of individuals are benefitted on account of an order passed by the executive, others cannot invoke the jurisdiction of the Court seeking a similar relief. A wrong decision in favor of any particular party does not entitle any other party to claim benefits based on such a decision. In *"Basawaraj"* the Hon'ble Supreme Court held that if some benefit was granted inadvertently or by mistake such an order does not confer any legal right on the others to get the same relief. In *"Basawaraj"* the Hon'ble Supreme Court held as under…….:

XV. In our opinion, this is not in the larger public interest that a teacher who could not obtain the training qualification for quarter a century is provided another opportunity to obtain a degree by extending cut-off date more than a decade after the Alam Committee Report was submitted. A right in law exists only and only when it has a lawful origin. The object of prescribing qualification is to select a suitable person in order to maintain excellence and standard of teaching. In *"Pramod Kumar"* the Hon'ble Supreme Court held that a person lacking the eligibility cannot approach the Court for the reason that he does not have a right which can be enforced in the Court. A plea has been put forth on behalf of the respondents that some time may be prescribed for attaining the training qualification as validity of appointment of untrained teachers is recognized under the Letter dated 4th February 1989. In our opinion, appointing a person who lacks eligibility for the post would amount to serious illegality and not mere irregularity. A writ petition with such a prayer was not maintainable and the respondents could not have approached the Court for such a relief as they do not have a right in law to seek appointment. In *"Umadevi (3)" and "Official Liquidator"* the Hon'ble Supreme Court ……...

XVI. The respondents are seeking regularization also on the basis of the Resolution dated 22nd November 2023 to regularize the services of untrained teachers belonging to SC/ST and Women

categories. In this context, Mr. Sachin Kumar, the learned Additional Advocate-General submitted that the respondents in some of the L.P.As shall be considered for regularization in terms of the Resolution dated 22nd November 2023, if otherwise found eligible for appointment as Assistant Teacher. These Letters Patent Appeals were accordingly dismissed as withdrawn vide order dated 11th December 2023.

XVII. The prayers made in the writ petitions were different and such writ petitions could not have been disposed of by a common order. In several writ petitions, a prayer for recognizing their services has been made by the Assistant Teachers. Whereas, some of the teachers are also seeking consequential reliefs including the monetary benefits w.e.f. 1st January 1989 in terms of the government notification dated 9th February 2011. The learned counsels appearing for the respondents submitted that there are three distinct categories of the Assistant Teachers viz (i) whose training certificate was not recognized by the NCTE (ii) untrained teachers belonging to SC, ST, and Woman categories and (iii) untrained teachers of the second phase schools who are eligible in terms of the Full Bench decision of the Patna High Court. There is also a fourth category of teachers who are said to be working in the "closed schools". …….

XVIII. The State of Jharkhand has taken a stand that no challenge was laid before the writ Court to the Resolution dated 25th April 2018. However, on verification of the records, we gathered that in WP(S) Nos.7403 of 2012, 4881 of 2017 and 921 of 2011 interlocutory applications were filed to challenge the Resolution dated 25th April 2018 but no order was passed thereon. On the contrary, the writ Court had expressed its satisfaction when the government decision was produced in the Court that every aspect of the matter was considered in the government decision. The writ Court was also conscious of the fact that the government decision dated 25th April 2018 is a policy decision of the State of Jharkhand. In the order dated 26th April 2018, the writ Court recorded that the government decision dated 25th April 2018 was in tune with the judgment of the Court and the previous decisions of the government. The order dated 26th April 2018 passed in W.P.(S) No. 921 of 2011 and batch cases reads as under……

XIX. However, the writ Court proceeded to hear the challenge laid to the government resolution on 5th September 2018 without allowing the State of Jharkhand to put forth its stand; the judgment was reserved on the same day. …….. However, in the present case, the writ Court acted in the breach of natural justice and the State of Jharkhand was taken by

surprise as it had no inkling of the proposed proceedings before the writ Court. The writ Court also transgressed the limits of judicial review and issued directions for modifying the policy decision of the State of Jharkhand.

Findings.

19. The writ petition was filed challenging the report of the three-member committee, and the petitioner prayed for a direction to the respondents to recognise his services on the post of Assistant Teacher in Geography. Admittedly, the three-member committee was appointed pursuant to the order passed by the Hon'ble Supreme Court in ***Civil Appeal No. 6626-6681 of 2001*** arising out of the judgment passed by the Hon'ble Full Bench of the Hon'ble Patna High Court reported in ***2000 (1) PLJR 287 in the case of "Project Uchcha Vidyalaya Shikshak Sangh and others Vs. State and others"*** and other analogous cases.

20. In the petitioner's writ petition, it was specifically stated that a Girls High School was established in Tamar block and a managing committee was constituted. The school was to start in 1984. The petitioner was appointed, after due advertisement, as an assistant teacher of Geography, and a letter to this effect was issued to the petitioner on 19.05.1986. It was also the petitioner's case that the petitioner held a degree in physical education and, therefore, was authorized to teach physical education. It was further stated that the school was constructed by the State Government on land donated by local people for the school, where only girls were studying.

21. The petitioner's case in the writ petition was that the petitioner's school was selected on 15.05.1985 by the committee constituted in terms of the Government letter dated 23.02.1985 relating to the 2nd phase of the schools. In the meantime, the state government issued a wireless message on 14th April 1987 providing for payment of salaries to untrained graduate teachers appointed by the managing committee in project schools selected in the financial year 1981-82, relating to the 1st phase of the schools. Since no similar decision was issued in connection with project schools selected in the year 1984-85, relating to the 2nd

phase, the matter was raised before various authorities and ultimately, vide Government letter dated 04.02.1989, a screening committee was constituted to examine the candidature of the teaching and non-teaching staff for the recommendation of their services. After several litigations, the Hon'ble Supreme Court directed the constitution of a three-member committee to examine the individual claims of teaching and non-teaching staff in the light of the judgment passed by the Hon'ble Patna High Court. The order of the Hon'ble Supreme Court is dated 03.01.2006.

22. The three-member committee report, by which the petitioner's claim for recognition of his service was rejected, has been placed on record as Annexure-1 to the writ petition. With respect to the writ petitioner, the report records that he was appointed on 19.05.1986 and held a graduate degree. He underwent training in 1986 at Amravati University, which was a one-year physical training course. The three-member committee report states that the petitioner's claim was rejected on two grounds: -

> (a) the petitioner was appointed as Geography teacher and his training in physical education had no relevance.
> (b) Appointment of the petitioner was one year after selection of the school by the three-men committee constituted by the Government at the district level.

23. The specific case of the writ petitioner was that the petitioner was appointed on 19.05.1986, i.e., prior to 04.02.1989, and received training in physical education in July, 1986, which is equivalent to B.Ed for all purposes. Accordingly, the services of the writ petitioner were required to be recognized on the post of Assistant Teacher in Geography with effect from 01.01.1989, and he was entitled to salary payment from 01.01.1989 with all consequential benefits.

24. This Court finds that the petitioner's case for absorption was already rejected by the three-member committee, that is, the Alam Committee, constituted after the judgment of the Hon'ble Supreme Court, in the year 2007. In the meantime, the state took a policy decision and issued a resolution dated 25.04.2018, wherein, *inter alia*, it was provided that teachers seeking recognition of their services in the

schools relating to the 2nd phase ought to have obtained the required training qualification by 30th September 2007. The policy decision dated 25.04.2018 was challenged by the petitioner through an interlocutory application seeking amendment; no order was passed in the interlocutory application, and still the policy decision dated 25.04.2018 was interfered with by the learned writ court. The L.P.A court, in its judgement under review, set aside the judgement of the writ court and held that the State of Jharkhand, being the employer, is empowered to decide the minimum educational qualification, cut-off date, and to sanction the post of teachers, etc., in the Project Schools, and also observed that under the Resolution dated 25th April 2018, 9 posts in each Project School are sanctioned and the graduate teachers who obtained the training qualification by 30th September 2007 shall be eligible.

25. This Court is of the considered view that all arguments advanced on behalf of the writ petitioners during the proceedings before the court have been addressed by the LPA court. Even the petitioner's broad submissions, as reflected in the written submissions, were also covered in the L.P.A. judgement under review.

26. Otherwise, the petitioner's arguments, by reference to the written submission that B.p.ed. [teacher training in physical education] is equivalent to a B.Ed. degree, are themselves contrary to the decision of the aforesaid Full Bench of the Patna High Court, wherein it has been clearly held in paragraph 27 of the judgement that the expression “trained graduate”, as prescribed under circular no. 142 dated 4th February, 1989, would mean a candidate having a Bachelor's degree in the subject of Education in addition to a Bachelor’s degree in any of the subjects of Arts, Science, or Commerce. It has also been held that, in case there is a requirement of a physically trained teacher as per the staffing pattern notified by circular no. 705 dated 12th October, 1982, the claim of such teachers can be considered. The Full Bench also observed that earlier circular no. 6066 dated 24th November, 1986, is with respect to schools of different categories. Thus, the Full Bench clearly held that the term “trained graduate”, as prescribed under the circular dated 04.02.1989, would be relevant to the subject concerned,

and that, if there is any requirement of a physically trained teacher as per the staffing pattern, only the claim of a physically trained teacher can be considered.

27. The Hon'ble Supreme Court, in the judgement arising out of the Full Bench Judgement, has also held that, so far as the required educational qualification is concerned, it is essentially a government function; the question of whether a teacher with B.T. Training or Training in physical education may continue in the project schools of the 2nd phase is left to the state, to be decided in accordance with law.

28. As per the subsequent policy decision set out in memo no. 1272 dated 25.04.2018, the deadline for obtaining a B.Ed. in the relevant subject was extended to the date of the Alam Committee Report, i.e., 30.09.2007. The L.P.A. court, in the judgement under review, has clearly held that the resolution dated 25.04.2018 is a policy decision and could not have been interfered with by the writ court. Admittedly, the petitioner never obtained a B.Ed. in Geography, the subject for which he was appointed as a teacher in the concerned school, and argued that B.P. Ed. teacher training is equivalent to a B.ed. degree.

29. In view of the aforesaid discussions, this court is of the considered view that the petitioner's contention that B.P. Ed. teacher training is equivalent to a B.Ed. degree is completely misplaced, devoid of merit, and finds no reason to review the judgment passed in the L.P.A. on such ground.

30. The petitioner, *on the one hand*, has also argued that the petitioner's appointment was on 19.05.1986, which was well before the issuance of letter no. 142 dated 04.02.1989, and therefore cannot have retrospective effect; and, *on the other hand*, has also raised a plea that the petitioner fully meets the minimum eligibility criteria clearly defined in letter no. 142 dated 04.02.1989.

So far as the petitioner's argument that the petitioner completely fulfills the minimum eligibility criteria defined in letter no. 142 dated 04.02.1989 is concerned, the same is devoid of any merit. The Full Bench has clearly held that a 'graduate trained' is a person who fulfills the minimum eligibility criteria defined in letter no. 142 dated

04.02.1989, and that the required training is related to the subject of graduation for which the appointment as a teacher was made. In view of the aforesaid discussions, the petitioner's argument that B.P. Ed. (training in physical education) is equivalent to a B. Ed. degree is devoid of any merit.

31. Thus, the petitioner was not trained as per the requirements of letter no. 142 dated 04.02.1989, which has been rightly cited as the 1st reason for rejection of the petitioner's claim vide the order passed by the three-member committee, which was impugned in the writ petition.

32. So far as the petitioner's argument that his date of appointment is prior to the issuance of letter no. 142 dated 04.02.1989 is concerned, this Court finds that clause 3 of the circular contained in letter no. 142 dated 04.02.1989 clearly provides that only the cases of those teachers who were working and appointed prior to selection by the district-level committee would be considered for recognition.

33. In the present case, admittedly, the school was selected on 15.05.1985, and the petitioner was appointed much thereafter, that is, on 19.05.1986, which was rightly cited as the 2nd reason for rejection of the petitioner's claim vide the order passed by the three-member committee, which was impugned in the writ petition filed by the petitioner.

34. This Court is of the considered view that the petitioner's claim for recognition of his services under letter No. 142 dated 04.02.1989 has been rightly rejected by the three-member committee (Alam Committee) on the aforesaid two grounds.

35. Once it is found that the petitioner is not covered vide letter no. 142 dated 04.02.1989 on account of his qualification in physical education training instead of B.ed. training in the concerned subject in which he was appointed, that is, Geography, and also it is found that he was appointed in the school after one year when the school was selected for consideration of recognition of the teachers appointed by the school, the petitioner is clearly not entitled to any relief.

36. Further, by virtue of memo no. 1272 dated 25.04.2018, a policy decision was taken to consider the cases of persons who had acquired

the required training by 30.09.2007 [the date of furnishing of the Alam Committee report]. In the present case, the petitioner admittedly did not acquire the required qualification, namely a B.ed. degree in Geography, the subject for which he was appointed as an assistant teacher. Therefore, the subsequent policy decision contained in memo no. 1272 dated 25.04.2018 does not assist the petitioner in any way.

37. So far as the grievance of the petitioner with respect to the non-inclusion of the L.P.A. filed by the state in respect of the petitioner, among as many as 32 L.p.as. withdrawn by the state pursuant to resolution dated 22.11.2023, is concerned, the grievance is devoid of any merit. Only those L.P.As. were withdrawn which related to writ petitioners belonging to Scheduled Caste/ Scheduled Tribe/ women, for which there was a specific reference in paragraph (iv) of letter no. 142 dated 04.02.1989 itself, followed by the policy decision contained in resolution dated 22.11.2023. The petitioner cannot take any advantage of resolution dated 22.11.2023, as the petitioner does not belong to the Scheduled Caste/ Scheduled Tribe/ female teacher category. The decisions taken by the State government, be it letter no. 142 dated 04.02.1989, resolution dated 25.04.2018, or resolution dated 22.11.2023, are all policy decisions, and once the petitioner is not covered by one or the other policy decision, no benefit can be extended to the petitioner.

38. With regard to the petitioner's claim to parity by reference to the resolution contained in memo no. 913 dated 01.04.2022, it is admitted that the resolution relates to the project high schools of the first phase (1981-82) set up by the government, whereas the petitioner's case concerns a school of the second phase set up by a private person. The Hon'ble Full Bench as well as the Hon'ble Supreme Court have distinguished between the first- and second- phase schools, and this aspect of the matter has also been taken note of by the LPA court while allowing the appeals, setting aside the judgement of the writ court, and holding that the required qualifications, cut-off date, etc., are essentially matters of policy. In such circumstances, the resolution contained in memo no. 913 dated 01.04.2022, which deals with first-phase schools,

has no relevance in the present case. The petitioner's school falls within the second phase and is guided by the policy decisions in connection with second-phase schools identified for recognition of the teachers in the year 1985.

39. So far as the letter of the learned Advocate General dated 20.11.2010 relating to project high schools is concerned, this Court is of the considered view that the opinion of learned Advocate General is not binding on this Court.

40. Thus, all the three documents which have been relied upon by the petitioner in the interlocutory application filing additional documents through I.A. No. 10645 of 2026, that is, Government Resolution contained in Letter no. 913 dated 01.04.2022, Government Resolution contained in Letter no. 3123 dated 22.11.2023, Letter issued by the Learned Advocate General, Jharkhand dated 20.11.2010, do not help the petitioner in any manner whatsoever.

41. The petitioner never obtained the required B.ed. degree to claim recognition of his services under the 1989 policy decision or the modified 2018 policy decision. The petitioner is also not covered by any of the policy decisions set out in Letter no. 913 dated 01.04.2022 or the Government Resolution in Letter no. 3123 dated 22.11.2023.

42. In view of the aforesaid discussions, no case for review of the judgment passed in the L.P.A. has been made out by the petitioner. This position remains unchanged even if the documents sought to be introduced through the interlocutory application in the review petition are taken into consideration, as discussed above.

43. Accordingly, the review petition is dismissed.

44. The pending interlocutory application is closed.

45. Before parting, this Court observes that, vide order dated 07.08.2026, Ms. Swati Shalini, Advocate, was appointed as an *Amicus Curiae* in this case. This Court records its appreciation for the valuable assistance accorded by the learned *Amicus Curiae*, who, in a short period of time, prepared and effectively assisted this Court in the matter. The Secretary, Jharkhand High Court Legal Services Committee, is directed to ensure that the legal remuneration of the learned *Amicus*

Curiae is duly paid to her within 4 weeks of submission of bills by her, @ Rs. 10,000/- per day, subject to the maximum permissible amount. This remuneration is, of course, in addition to the gratitude and appreciation this Court expresses for the services rendered by Ms Swati Shalini.

46. Let a copy of this order be communicated to the Secretary, Jharkhand High Court Legal Services Committee.

(M. S. Sonak, C.J.)

(Anubha Rawat Choudhary, J.)

Date of Pronouncement:25.11.2026
Pankaj/-
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