2026:JHHC:29840

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P (S) No. 5451 of 2019

Sudhir Kumar, [aged about 61 years], son of Sri Nilkant Prasad, resident of village Jorakhurd Patan, P.O. & P.S. Patan, District-Palamau, Jharkhand. **..... Petitioner**

V E R S U S

1. State of Jharkhand through the Secretary, Human Resource Department, P.O. & P.S. Dhurwa, District-Ranchi.
2. Director (Secondary Education), Jharkhand, Ranchi, P.O. & P.S. Dhurwa, District-Ranchi.
3. District Education Officer, Palamau, P.O. & P.S. Town, District Daltonganj
4. Project Girls High School, Patan, P.O. & P.S. Patan, District-Palamau, through its Principal. **..... Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s) : M/s. Rajeev Kumar, Anil Kumar, Brajesh Kumar Singh, Advocates
For the Resp.-State : Mr. Subham Mishra, A.C. to S.C.(M)-II

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C.A.V. ON: 17/08/2026 **PRONOUNCED ON: 05/10/2026**

1. Heard learned counsel for the parties.

2. In the instant writ petition, the petitioner has prayed for followings reliefs:-

i. *For a declaration that clause no. 5 Ka (ii) is ultra vires Article 14, 16 and 21 of the Constitution of India as it seeks to create a separate class on the hypotheticat cut off date i.e. basis of a 30.09.2007, though prior to that cut off date regularise 100 of teachers (both trained & untrained) by policy decision 14 April 1987 issued by Commissioner-cum-Secretary to Government of Bihar, Education Department, the State of Jharkhand itself had decided regularise untrained teachers appointed by the Managing Committee of Project Girls Schools, communicated Respondent no. 2 therefore, prima facie discriminatory and arbitrary shifting of policy without direct or indirect overruling the decision to regularise untrained teachers of Project Schools for evaluation by committee as on 04.02.1989, any valid reason and thereby depriving right to livelihood acted contrary to legitimate expectation thereby violating Article 21 decision of the Constitution of India;*

ii. *For grant of untrained teachers salary as per Clause 5 Kha (i) in the pay scale of 785-1210 and is consequent revisional pay pursuant to 5th & 6th pay revision committee and fix pension of the petitioner on that basis as other teachers who were similarly situated have been*

3. The brief facts of the case are that the petitioner was appointed as an Assistant Teacher in Project Girls High School, Patan, Palamau, and joined service on 18.08.1982. The erstwhile State of Bihar had taken a policy decision vide letter dated

27.05.1981 to establish Project Girls High Schools in a phased manner across various blocks to eradicate female illiteracy. Subsequently, policy decisions and circulars, including the circular dated 04.02.1989 and later a departmental resolution dated 06.10.2012, dealt with the absorption and service recognition of teaching and non-teaching staff.

4. However, the State of Jharkhand subsequently issued a consolidated policy resolution vide Resolution No. 1272 dated 25.04.2018, stipulating that untrained teachers would only be considered for service recognition if they acquired their training qualification by 30.09.2007 (the date of submission of the Alam Committee report). Aggrieved by the denial of regularization and salary benefits owing to this cut-off date, the petitioner has approached this Court.

5. At the outset, Ld. Counsel for the petitioner confines his argument only on the prayer No.2 and excluding the challenge on the legality of clause no. 5 Ka (ii) as ultra vires.

6. It had been submitted that the petitioner was appointed and has discharged continuous service against a sanctioned position under the same unified scheme, and creating a classification between trained and untrained teachers—or imposing an arbitrary cut-off date of 30.09.2007—is discriminatory and violative of Articles 14, 16, and 21 of the Constitution.

7. It has been further submitted that the State had regularized several other similarly situated untrained teachers in the past (such as in the cases of Sarju Prasad Gupta and others) pursuant to the circular dated 06.10.2012 and various coordinate bench orders, and therefore, denying similar benefits to the petitioner amounts to arbitrary pick-and-choose and violates the doctrine of legitimate expectation.

8. On the other hand, learned counsel for the respondent-State relying upon the counter affidavit has submitted that the policy decision governing the regularization of 1984-85 phase project schools has been dealt under Departmental Resolution No. 1272 dated 25.04.2018, read with subsequent clarifications under Resolution No. 3123 dated 22.11.2023.

It has been further submitted that a long-term untrained teacher cannot claim a perpetual right to acquire qualifications or seek regular appointment through writ jurisdiction decades later, as basic eligibility requirements are fundamental.

9. Learned Counsel has placed reliance on the Division Bench judgment of this Court in *LPA No. 138 of 2019 and analogous cases (The State of Jharkhand v. Bal Mohan Prasad)*, and has submitted that prolonged service without meeting essential statutory eligibility criteria does not cure the underlying lack of qualification, nor does it create an enforceable legal right to absorption.

10. Further, it has been submitted that the circular dated 06.10.2012 was merely a reference/interdepartmental communication for committee processing and the same was never approved by the cabinet, and thus does not override the structured framework of Resolution dated 25.04.2018.

11. Having heard Ld. Counsel for the parties and after going through the documents annexed with the respective affidavits, it appears that the petitioner has thrown challenge to the cut off date prescribed by the State for being eligible for recognition of service and further has claimed the untrained teacher salary in the pay scale of 785-1210 and its consequent revision.

12. The Patna High Court in the case of ***Project Uchcha Vidyalaya Shikshak Sangh Vs State of Bihar***

reported in ***2000 (1) PLJR 287*** has held that the cut-off date for possessing the required qualification should be the date of submission of report of the Screening Committee which has been reiterated in the resolution no. 1272 dated 25.04.2018. Clause 5 (Ka)(ii) of Resolution No. 1272 dated 25.04.2018 stipulates that the *"Graduate Qualified Teacher*" appointed till 04.02.1989 and *"Trained Teacher"* appointed up to 30.09.2007 i.e. the date of the submission of the report of the Alam Committee was said to be recognized on sanctioned post.

13. In the present case although the petitioner was appointed in the year 1982 but was untrained and admittedly the service of the petitioner was not absorbed so in absence of absorption of service, the petitioner cannot lay a lawful claim for parity in pay.

14. Moreover, the issue involved in the present writ petition has already been settled by the Division bench by this Court in *L.P.A. No. 138 of 2019 titled "The State of Jharkhand Vs Bal Mohan Prasad"* wherein this court has held that long-term untrained teachers cannot claim another chance to qualify or seek appointment through writ jurisdiction, as eligibility requirements are fundamental, and prolonged service does not cure ineligibility.

15. Ld. Counsel for the petitioner has relied upon the notification dated 06.10.2012 but from bare perusal of the same and the clarification made by the State it is clear that the same was never approved by the State Cabinet and it was not the policy decision of the State.

16. The Division Bench while deciding the *L.P.A. No. 138 of 2019* has also clarified about circular dated 06.10.2012. The relevant portion of the order passed in *L.P.A. No. 138 of 2019* is reproduced herein below :-

"25. *The respondents have 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.*

26. *The respondents have produced copies of the orders dated 14th June 2011, 12th September 2012, 22nd December 2013, 3rd June 2013, 20th June 2013, 11th September 2014, 12th February 2015, 2nd February 2016, 11th April 2016, 14th June 2016, 17th August 2016, 28th October 2016, 5th October 2016, 9 th December 2015, 1st March 2017, 22nd March 2017, 17th March 2017, 24th March 2017, 24th June 2008, 5th February 2018 and 13th February 2020.*

27. *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" 55 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 abovenamed 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 2 nd January 1981 [WP(S) No. 5474 of 2017 corresponding to LPA No. 698 of 2019] to 7 th 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.*

28. *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" 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"59 the Hon'ble Supreme Court held as under:*

> *"8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/ benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/ decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Even otherwise, Article 14 cannot be stretched too far for otherwise it would make functioning of administration impossible. (Vide Chandigarh Admn. v. Jagjit Singh, Anand Buttons Ltd. v. State of Haryana, K.K. Bhalla v. State of M.P. and Fuljit Kaur v. State of Punjab.)"*

> ***29.*** *In "Doiwala Sehkari Shram Samvida Samiti Ltd." the Hon'ble Supreme Court held that the concept of equal treatment presupposes existence of similar legal foothold and does not countenance repetition of wrong action. In "Doiwala Sehkari Shram Samvida Samiti Ltd."60 the Hon'ble Supreme Court held as under:*
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> > *"28. This Court in Union of India v. International Trading Co. has held that two wrongs do not make one right. The appellant cannot claim that since something wrong has been done in another case, directions should be given for doing another wrong. It would not be setting a wrong right but could be perpetuating another wrong and in such matters, there is no discrimination involved. The concept of equal treatment on the logic of Article 14 cannot be pressed into service in such cases. But the concept of equal treatment presupposes existence of similar legal foothold. It does not countenance repetition of a wrong action to bring wrongs on a par. The affected parties have to establish strength of their case on some other basis and not by claiming negative quality. In view of the law laid down by this Court in the above matter, the submission of the appellant has no force. In case, some of the persons have been granted permits wrongly, the appellant cannot claim the benefit of the wrong done by the Government."*
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> *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 reiterated that long years of continuous service even without break would not justify the claim for regularization. The powers under Article 226 of the Constitution are discretionary and are exercised in furtherance of justice, equity and good conscience. The writ Court is therefore duty bound to take all the relevant facts and circumstances into consideration and decide for itself as to whether the decision/order under challenge warrants interference of the Court."*

17. In view of the aforementioned settled legal principles regarding eligibility, the non-applicability of negative equality, and the binding parameters of the State's policy resolutions, the instant writ does not require interference and accordingly, no relief can be granted to the petitioner.

18. Accordingly, the instant writ application stands dismissed. Pending I.A., if any, also stands disposed of.

(Deepak Roshan, J.)

Dated: 05 / 10/ 2026
Amardeep/
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