



IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 32 of 2023

In

Civil Writ Jurisdiction Case No.14551 of 2022

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1. Amir Paswan Son of Late Anandi Paswan Resident of Village-Parmanandpur, P.O.-Koshi College, P.S.- Muffassil, District- Khagaria.
 2. Chandan Kumar Paswan, Son of Late Asarfi Paswan Resident of Village and P.O.-Sansarpur, P.S.-Muffasil, District- Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education Department, New Secretariat, Patna.
3. The District Magistrate, Khagaria.
4. The District Education Officer, Khagaria.
5. The District Programme Officer (Establishment), Education Department, Khagaria.
6. The Block Development Officer, Prakhand- Khagaria, District- Khagaria.
7. The Block Education Officer, Block- Khagaria, District- Khagaria.
8. The Panchayat Secretary cum Member of Niyojan Ekai, Gram Panchayat Raj Sansarpur, District- Khagaria.
9. The Mukhiya cum President of Niyojan Ekai, Gram Panchayat Raj Sansarpur, District- Khagaria.
10. The Panchayat Secretary cum Member of Niyojan Ekai, Gram Panchayat Raj Gaura, Shakti, District- Khagaria.
11. Mukhiya cum President of Niyojan Ekai, Gram Panchayat Raj Gaura, Shakti, District- Khagaria.
12. Panchayat Secretary cum Member of Niyojan Ekai, Gram Panchayat Raj Uttari Bahadas, District- Khagaria.
13. Mukhiya cum President of Niyojan Ekai, Gram Panchayat Raj Uttari Bahadas, District- Khagaria.
14. Panchayat Secretary Cum Member of Niyojan Ekai, Gram Panchayat Raj, Dakshini Bahadas, District- Khagaria.
15. Mukhiya cum President of Niyojan Ekai, Gram Panchayat Raj Dakshini Bahadas, District- Khagaria.
16. Archana Kumari D/o Late Rajendra Prasad Singh, Resident of Village - Bhadas Uttari, P.O. - Bhadas, P.S. - Muffasil, District- Khagaria.
17. Pankaj Kumar S/o Sri Mahendra Thakur, Resident of Village - Darhias, P.O.





Bhadas, P.S. - Muffasil, District- Khagaria.

... .. Respondent/s

Appearance:

For the Appellant/s : Mr. Nityanand Mishra, Advocate
Mr. Alok Abhinav, Advocate
Ms. Diksha Kumari, Advocate
Mr. Anil Kumar Choudhary, Advocate
For the Respondent/s : Smt. Shilpa Singh (GA-12)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 05-08-2026

The present appeal has been filed against the judgment dated 10.11.2022 passed by the Ld. Single Judge of this Court in CWJC No. 14551 of 2022, whereby and whereunder the writ petitions have been dismissed by holding that the appellants' claim is based on fake degrees and they have played fraud in obtaining appointment, therefore they would have no right for continuance in service nor they can be said to be having any vested right on the post, thus no opportunity of hearing was required and principles of natural justice would not have any application while dispensing with the services of such persons.

2. It may be relevant to note here that the impugned judgment dated 10.11.2022 has been passed in a batch of five writ petitions and as far as the present appeal is concerned, the same arises out of a writ petition bearing CWJC No. 14551 of





2022 and out of four writ petitioners, only two have approached this Court by way of the present appeal.

3. The brief facts of the case, according to the appellants, are that the appellants and other eligible candidates had applied for appointment as Panchayat Teachers/Block Teachers in the year 2006/2008 in various Gram Panchayats as well as Blocks under the District-Khagaria, whereupon the appellants were appointed as Panchayat Teachers in different schools under various Panchayats of Khagaria District on the basis of academic qualification issued by the Madhyamik Shiksha Parishad, Delhi. It is stated that in pursuance to the directions issued in the case of Ranjeet Pandit & Anr. vs. The State of Bihar & Ors. (CWJC No. 15459 of 2014), the State Vigilance had enquired into the educational qualifications of all the *Niyojit* Teachers of the entire State of Bihar and as far as the Panchayat Teachers/Block Teachers are concerned, the enquiry was conducted by the State Vigilance after a period of more than 10 years, whereafter an FIR was lodged bearing Khagaria Muffasil P.S. Case No. 456 of 2016 dt. 25.7.2016, under Sections 467, 468, 471, 420, 120B/34 of the Indian Penal Code against the appellants and others.

4. The appellant no. 1 who was the petitioner no. 2 in the aforesaid writ petition, namely Amir Paswan had passed the





Secondary School Examination from the Bihar School Examination Board, Patna in the year 1990, whereafter he had passed the Senior Secondary School Examination from Madhyamik Shiksha Parishad, Delhi in the year 1996 while the appellant no. 2 who was the petitioner no. 3 in the aforesaid writ petition, namely Chandan Kumar Paswan had passed the Secondary School Examination in the year 2002 from Bihar School Examination Board, Patna and then had passed the Senior Secondary School Examination in the year 2004 from Madhyamik Shiksha Parishad, Delhi. The appellant no. 1 was appointed as Panchayat Teacher vide letter dated 14.08.2010 issued by the Panchayat Secretary, Gram Panchayat Raj Gaura Shakti, Khagaria at Primary School, Gaura Shakti within the District-Khagaria whereas the appellant no. 2 was appointed as Panchayat Teacher vide letter dated 14.08.2010 issued by the Panchayat Secretary, Gram Panchayat Raj, Bhadas, Uttari, Khagaria at Nav Srijit Primary School, Khagaria. Subsequently, an FIR bearing Alauli P.S. Case No. 18 of 2016 dated 16.01.2016 was lodged against the appellants and others under Sections 468, 471, 420, 120B/34 of the Indian Penal Code and in the said FIR suspicion was shown against the appellants and others on account of certificates issued by the Madhyamik





Shiksha Parishad, Delhi. In the interregnum period, the District Programme Officer (Establishment) Education Department, Khagaria had vide letter dated 12.08.2018 issued directions to remove such teachers against whom FIR had been registered. Thereafter, the services of the appellants were terminated without either issuing any show cause notice or giving them an opportunity of hearing, leading them to filing writ petitions, however the same were disposed of with liberty to the appellants to approach the District Appellate Authority, whereafter they had filed appeal before the District Appellate Authority, Khagaria bearing Appeal No. 18 of 2019.

5. The District Appellate Authority, Khagaria by a judgment dated 27.12.2019 had allowed the appeal filed by the appellants along with other appeals and quashed the impugned order dated 12.08.2019 (actually 12.08.2018), issued by the District Programme Officer (Establishment), Khagaria and had directed the respondents to allow the appellants and others to work as usual in their concerned schools and also pay salary for the period they had worked. The District Programme Officer (Establishment), Khagaria had then filed a review petition bearing Review Case No. 4 of 2020, however the same was dismissed by the Presiding Officer, District Appellate Authority,





Khagaria vide order dated 29.12.2020. Thereafter, the District Programme Officer (Establishment), Khagaria had challenged the aforesaid order dated 29.12.2020, passed in Review Case No. 4 of 2020 by filing Appeal No. 65 of 2021 and Appeal No. 68 of 2021, however the same were dismissed by an order dated 08.09.2021 in light of the reasoned order dated 08.09.2021 passed in Appeal No. 47 of 2021, which in turn was dismissed on the ground that there is no illegality in the order impugned in consideration of the review petition, while recording the submission of the Ld. Counsel for the appellant to the effect that he will advise the Department to file appeal against the order passed by the Ld. District Appellate Authority on merits of the case. Thereafter, the appellants were reinstated by the respondent authorities vide Memo dt. 14.01.2020, issued by the Block Development Officer, Alauli, however on account of non-payment of salary, the appellants & Ors. had filed a contempt petition before the District Appellate Authority bearing Contempt Case No. 5 of 2020. However, in the meantime, an appeal bearing Appeal Case No. 17 of 2022 was filed by the District Programme Officer (Establishment), Khagaria against the judgment dated 27.12.2019, passed by the Ld. District Appellate Authority, Khagaria against the appellants & Ors.





before the Ld. State Appellate Authority, which was allowed by an order dated 18.08.2022. It would be relevant to reproduce herein below paragraphs no.11, 15, 16, 17, 18, 19, 24 and 25 of the said order dated 18.08.2022.

“11. Thus, it is not in dispute that the 17 private respondents of this case were appointed as Panchayat/Block Teachers in two appointment processes, in different Panchayats and Blocks, on the basis of intermediate certificate from Madhayamik Shiksha Parishad, Delhi. The contention of the private respondents is that this certificate was valid and recognized for appointment of teachers in Bihar before 2008. In support they have pleaded that Madhayamik Shiksha Parishad, Delhi was derecognized by order dated 1344 dated 22.12.2008 of DEO, Khagaria. As discussed earlier in this order, this Authority does not find it to be true. Firstly, District Education Officer is not the competent authority to recognize or derecognize any certificate or degree or any institution. He can only State the decisions taken by the Government. The said order of DEO cannot be, in any way, seen as an order for derecognition. Rather, it describes the situation as it existed on date, on the basis of report of a three men committee which must have examined the relevant documents and papers. Thus, it can in no way concluded that before issue of this order the certificate of Madhayamik Shiksha Parishad, Delhi was recognized. In fact, recognition of any degree or certificate is a positive and affirmative act which can be done only through an order or notification or resolution of government, as laid down clearly by Hon’ble High Court in CWJC No. 7313 of 2012, as quoted below:

“Recognition of an Institution is a positive and definite act which must appear from any specific order/ notification/resolution of the Government. No





Institution can stand recognized by the State on presumption or assumption. Only because name of the Institution was not included in the list contained in the said order of the Department dt. 25.08.2008, it cannot be accepted that the same shall stand recognized.”

15. A part of the order passed by Hon’ble High Court in CWJC No. 7313 of 2012 has been quoted above. In this case the Hon’ble High Court finally held that the degree of Madhayamik Shiksha Parishad, Delhi was not recognized by State government by any specific act, as quoted below:

“For establishing his case petitioner was required to produce specific Government Resolution/Order/ Circular recognizing the Institution during the period petitioner had joined the course and/or appeared in the examination conducted by the Institution and got his degree. There is nothing on record to show that this Institution had been recognized by the State Government by any specific act.”

16. This order of Hon’ble High Court passed in CWJC No. 7313 of 2012 was challenged in LPA No. 1008 of 2012, but this appeal was rejected, as quoted below:

“The writ petitioner has been non-suited for appointment to the post of Panchayat teacher on the ground that the certificate of Senior Secondary School Certificate Examination obtained by him from Madhayamik Siksha Parishad, Delhi is not recognized in the State of Bihar.”

“The challenge to the said decision in above CWJC No. 7313 of 2012 has failed before the learned single Judge. Therefore, this Appeal.

“We agree with the learned single Judge. Appeal is devoid of any merit. Appeal is dismissed in limine.”

17. This matter was further raised in Civil Review Case No.188 of 2013 but again Division Bench of Hon’ble High Court rejected it as quoted below:





“Petitioner has failed to establish that Madhayamik Shiksha Parishad, Delhi and the degrees and the certificates awarded by it are recognized by the State of Bihar for appointment as Panchayat Teacher.”

“No ground for review is made out.

“Petition is rejected.”

18. On the basis of orders passed in CWJC No. 7313 of 2012, LPA No. 1088 of 2012 and Civil Review No. 188 of 2013, this Authority is constrained to conclude that intermediate certificate of Madhayamik Shiksha Parishad, Delhi was never recognized by the State of Bihar for appointment of teachers. Thus, the private respondents had been appointed on the basis of an invalid degree. In its report, State Vigilance Department has recorded that Madhayamik Shiksha Parishad was a fake institute which was run by one man under one roof. This Authority has no reason to disbelieve this report. Thus, a degree or certificate of Madhayamik Shiksha Parishad and a job obtained on its basis become acts involving fraud and misrepresentation.

19. Another point raised in the impugned order is violation of principle of natural justice in termination of service of the private respondents by concerned authorities. In this connection, this Authority notes that there is a provision in Rule 11 of 2006 Rules and Rule 14 of 2012 Rules that if any certificate is found to be invalid the appointment will be cancelled and necessary legal action will also be taken. Thus, the cancellation of appointment of the private respondents is covered by the Rules. Besides, this Authority notes that the learned District Authority did not remand the matter to the appointing authorities on ground of violation of natural justice. Rather, it considered other issues as well and on the basis of that it held that the termination orders were illegal and set them aside. This Authority also notes that the private respondents got an opportunity in District Authority to present their cases. Apart from that they have





received opportunity of hearing in this Authority also. After availing these two chances of hearing they have been provided they cannot claim any benefit on account of principle of natural justice.

24. This is a matter involving appointment by misrepresentation and fraud, on the basis of unrecognized and invalid certificate and it is violative of the rights of the meritorious students of this state, holding proper and valid degrees. Therefore, on the basis of the judgments of Hon'ble Supreme Court of India quoted above, this Authority is inclined to condone the delay in filing of this appeal and decide this case on merit.

25. In result, the impugned order is quashed and the appeal is allowed. Thus, the termination letters issued by the respective authorities relating to the private respondents including letter no. 195 dated 12.08.2018 of DPO (Establishment) are upheld. The appointment of respondent 1 to 17 is cancelled from the date of appointment itself. They will be removed from service within a period of one fortnight by the respective Employment Units. Since this case concerns teachers employed in different Panchayats and Blocks the appellant will have the responsibility of communicating this order to all the Employment Units and ensuring its compliance. In view of directions given by Full Bench of Hon'ble Patna High Court in case of Rita Mishra and others vs. Director, Primary Education, reported at (1988) AIR (Patna) 26, which has been affirmed by Full Bench of Hon'ble Supreme Court of India in case of R. Vishwanath Pillai vs. State of Kerala and others, reported in (2004) 16 AIC 278, and in view of directions given by Division Bench of Hon'ble Patna High Court in CWJC No. 15459 of 2014, no payment will be admissible to the private respondents by virtue of these cancelled appointments. If some payment has been made, it shall be realized by District Education Officer according to process of law. In view of directions given in CWJC No. 15459 of 2014, they will also be disqualified for any





appointment in future in organizations of State. A copy of this order shall be sent to DEO/DPO (Establishment) by Secretary of this Authority.

With these directions, the appeal is disposed of.”

6. The appellants herein and others being aggrieved by the aforesaid order dated 18.08.2022 passed by the Ld. State Appellate Authority, Patna in Appeal No. 17 of 2022 had filed a writ petition bearing CWJC No. 14551 of 2022, however the same has been dismissed by the impugned order dt. 10.11.2022.

7. The Ld. Counsel for the appellants has at the outset referred to a judgment rendered by a coordinate Bench of this Court dated 17.01.2019, passed in LPA No. 50 of 2015 (***Rohit Das & Anr. vs. The State of Bihar & Ors.***) to contend that in the said case also intermediate qualification was obtained by the appellants from *Gurukul Vishwavidyalaya, Vrindavan, Mathura, U.P.*, which was not recognized by the Education Department of the Government of Bihar for holding the post of Panchayat Teacher, however the Ld. Division Bench by the said judgment dated 17.01.2019 has allowed the appellant no. 1 to continue on his post while directing the State respondents to forthwith reinstate the appellant no. 2 on his post and allow him consequential benefits. Thus, it is submitted that on the same analogy, the present appeal be allowed.





8. Nonetheless, the Ld. Counsel for the appellants has not been able to show from the pleadings that the institution i.e. Madhyamik Shiksha Parishad, Delhi from where the appellant Nos. 1 and 2 claim to have passed the Senior Secondary School Examination in the year 2002 and 2004 respectively is not a fake institution and was/is recognized by the State Government by any specific act.

9. We have heard the Ld. Counsel for the appellants and gone through the materials on record. Having considered the submission made by the Ld. Counsel with regard to the aforesaid judgment dated 17.01.2019, rendered by a coordinate bench of this Court in the case of **Rohit Das & Anr.** (supra), we find that there is a difference between what has been projected by the Ld. Counsel for the appellants and what is written in the said judgment dated 17.01.2019, inasmuch as upon a bare perusal of the same, it is apparent that the appellant of the said case had obtained intermediate qualification from *Gurukul Vishwavidyalaya, Vrindavan, Mathura, U.P.*, which was not recognized by the Education Department, Government of Bihar, for holding the post of a Panchayat Teacher but despite an order dated 03.08.2013 having been passed by the District Education Officer, Jamui, directing the appropriate authorities to terminate





the services of the said appellants, since their intermediate qualifications were from a fake institution, no follow-up action was taken by the concerned authorities and the said appellants continued to discharge their duties, however during the interregnum period, the said appellants obtained intermediate qualification by appearing in an examination conducted by the Bihar School Examination Board, Patna, thus the Ld. Division Bench of this Court was of the view that before the State respondents could act upon the direction of the District Education Officer to terminate the services of the appellants, the appellants had acquired the requisite intermediate qualification from a recognized institution to hold the post of Panchayat Teacher, hence it was held that the said two appellants are fully qualified to hold the post of a Panchayat Teacher. It was further held that the direction of the District Education Officer, Jamui dt. 03.08.2013 having not been acted upon, before the appellants acquired the intermediate qualification from a recognized institute, which made them eligible to continue on the post of Panchayat Teacher, the same has lost its force and cannot be acted upon now. Conversely, we find that in the present case the intermediate qualification has been obtained by the appellants from an institution i.e. Madhyamik Shiksha Parishad, Delhi,





which is not recognized by the Government of Bihar and moreover, the appellants have not brought any chit of paper on record to show that they have subsequently acquired the intermediate qualification from a recognized institute, hence the reliance placed on the judgment rendered in the case of **Rohit Das & Anr.** (supra) is misplaced.

10. We would refer to a judgment dated 16.04.2012, rendered by a Ld. Single Judge of this Court in the case of **Shyam Kishore Kumar vs. The State of Bihar & Ors. (CWJC No. 7313 of 2012)**, relevant portion whereof is reproduced herein below:-

“In this writ application, petitioner has challenged the order of the Appellate Authority dated 3.3.2012. The Appellate Authority has held that since the Institution, i.e. Madhyamik Shuiksha Parishad, Delhi from where petitioner claimed to have appeared in the Examination as an independent candidate and had obtained degree of Senior Secondary, was not recognized by the State Government and hence his appointment was illegal.

Learned counsel for the petitioner refers to Annexure-10, an order issued by the Human Resources Development Department dated 25.8.2008, containing names of some of the Institutions which were declared as not recognized for the purposes of appointment of Panchayat Teachers. He submits that since the Institution of the petitioner is not included in the list, it should be held that the same stands recognized by the





State Government and therefore, the degree of the petitioner was valid and his appointment was also valid.

Recognition of an Institution is a positive and definite act which must appear from any specific order/notification/resolution of the Government. No Institution can stand recognized by the State on presumption or assumption. Only because name of the Institution was not included in the list contained in the said order of the Department dated 25.8.2008, it cannot be accepted that the same shall stand recognized. For establishing his case petitioner was required to produce specific Government Resolution/Order/Circular recognizing the Institution during the period petitioner had joined the course and/or appeared in the examination conducted by the Institution and got his degree. There is nothing on record to show that this Institution had been recognized by the State Government by any specific act.

In the circumstances, this Court does not find any error in the order of the Appellate Authority and therefore does not find any merit in this writ application. The same is accordingly dismissed.”

11. The aforesaid order dated 16.04.2012 was challenged in LPA No. 1008 of 2012, however the same has also stood dismissed by observing that the writ petitioner has been non-suited for appointment to the post of Panchayat Teacher on the ground that the certificate of Senior Secondary School Examination obtained by him from Madhyamik Shiksha Parishad, Delhi, is not recognized in the State of Bihar and challenge to the said decision in CWJC No. 7313 of 2012 has





failed before the Ld. Single Judge and there is no infirmity in the view of the Ld. Single Judge.

12. Having regard to the facts and circumstances of the case, we find that apparently the certificate of Senior Secondary School Examination has been obtained by the appellants from a fake institution, i.e. Madhyamik Shiksha Parishad, Delhi, which is also not recognized by the State Government by any specific act, hence the appellants were/are not possessing the requisite qualification for appointment as Panchayat Teachers and in fact they have obtained appointment as Panchayat Teachers on the basis of misrepresentation and fraud i.e. on the basis of unrecognized and invalid intermediate certificate, hence the employment obtained by the appellants is not sustainable in the eyes of law.

13. The Ld. Counsel for the appellants has not canvassed any other issue, however by way of caution we may refer to a judgment rendered by the Hon'ble Apex Court in the case of ***R. Vishwanatha Pillai vs. State of Kerala***, reported in ***(2004) 2 SCC 105*** to emphasize that it is a well settled law that where the very appointment to a post is vitiated by fraud, forgery or crime or illegality, in such cases the appointment is *void ab initio* and there is no requirement of compliance of the principles of





natural justice.

14. Yet another aspect of the matter is that Rule 11 of the Bihar Panchayat Primary Teacher (Appointment and service conditions) Rules, 2006 and Rule 14 of the Bihar Panchayat Primary Teacher (Appointment and service conditions) Rules, 2012 postulate that if any certificate is found to be invalid or fake, the appointment shall be cancelled and necessary legal action will be taken, thus no illegality can be found in the Order terminating the services of the appellants.

15. Having regard to the facts and circumstances of the case and for the foregoing reasons, we do not find any merit in the present appeal, hence the same stands dismissed.

(Mohit Kumar Shah, J)

(Sourendra Pandey, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	N/A
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