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**(2019) 07 JH CK 0093**

**In the Jharkhand High Court**

**Case No : Writ Petition (S) No. 2404 Of 2014**

Dilip Kumar Singh

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

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**Date of Decision : 02-07-2019**

**Acts Referred:**

Bihar Primary School Teacher Appointment Rules, 1991 — Rule 5, 11

**Citation : (2019) 07 JH CK 0093**

**Hon'ble Judges : Sanjay Kumar Dwivedi, J**

**Bench : Single Bench**

**Advocate : Amrendra Pradhan, Chndra Prabha**

**Final Decision : Allowed**

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## **Judgement**

In this writ petition, the petitioner has prayed for quashing the letter no. 3826 dated 17.12.2013 issued by the respondent no.3 whereby and whereunder the respondent no.3 has been pleased to reject the proposal for approval of the service of the petitioner as contained in letter no. 45/2013 dated 6.8.2013 by the Secretary Jharia Gujrati Hindi Madhya Vidyalaya. It is further prayed for direction upon the respondent no.3 to accord/grant approval of the services of the petitioner as Assistant Teacher, Jharia Gujrati Hindi Madhya Vidyalaya in the light of the proposal as contained in letter no. 45 of 2013 dated 6.8.2013.

Jharia Gujrati Hindi Madhya Vidyalaya issued advertisement in August 1995 inviting application from the eligible candidates to the post of Assistant Teacher and by the said Advertisement informed that interested candidates may appear for interview at 11.am on 10.9.1995 along with their testimonial/educational certificate. The petitioner also applied and appeared before the Selection Committee of the said school along with his educational certificate for interview on 10.9.1995 and was declared successful. Vide letter dated 16.9.1995 the petitioner was issued the letter of appointment on the post of Assistant Teacher from 18.9.1995 in the pay scale of untrained Metric (Rs. 975 to 1540/-). Vide letter

dated 18.10.1995, the competent authorities of the said school sent a proposal to the respondent no. 3 seeking approval of appointment of six Assistant Teachers appointed against sanctioned vacant posts wherein the name of the petitioner appears at serial no. 2. The learned counsel for the petitioner submits that at the time of appointment the petitioner was a Matriculate from the Bihar School Examination Board and had also pursuing two years' teachers training course from Millia Sir Syed Primary Teachers' Training College, Rambag, Purnia Bihar. It is stated that the petitioner was enrolled in the aforesaid college in the two years teachers training course for the sessions 1990-92. The petitioner was issued his Admit Card to appear in the final examination of the two years teachers training course undergone by him for the Session 1990-92 scheduled to begin from 14.5.2013 and the petitioner appeared and was declared successfully in the aforesaid examination for the Session 1990-92 and was issued the marksheet as well as provisional certificate. Vide letter dated 18.10.1995, the competent authorities of the said school sent a proposal to the respondent no.3 seeking approval of appointment of the six Assistant Teachers appointed against the sanctioned vacant posts wherein the name of the petitioner appears at serial no.2.

Mr. Amrendra Prasad, learned counsel for the petitioner submit that Rule-5 of Bihar Primary School appointment Rule 1991 provides the educational qualification as matric only. He further submits that in view of the Rule 11 of the said Rule it is provided that untrained teacher will be put in the pay scale of matric untrained teacher.

It is stated that after the judgment of the Hon'ble Supreme Court in Civil Appeal No. 5880-5881 of 2012 and Civil Appeal No. 8521-8522 of 2011, the Bihar School Examination Board vide letter no. 920 dated 29.4.2013 issued the examination schedule of the two years Teachers' Training imparted by the aforesaid two college. The petitioner was issued his Admit Card to appear in the final examination of two years Teachers' Training Course undergone by him for the Session 1990-92 scheduled to begin from 14.5.2013 and was allotted Roll Code 7101 and Roll No. 114 with the examination Centre as P.N. Anglo Sankrit Vidyalaya Patna. The petitioner appeared and was declared successful in the aforesaid examination for the Sessions 1990-92 and was issued the mark sheet as well as Provisional certificate. The learned counsel has relied on the decision in the case of Arun Siha and Ors Vs. State of Jharkhand and Ors reported in 2008(3)JCR 91(JHR). It is stated that appointment letter was issued in favour of petitioner on 16.9.1995 and the petitioner's name was recommended for approval by the concerned respondent no.3 on 18.10.1995 along with other selected candidates. The school authorities resubmitted the proposal before the respondent no.3 for approval of appointment. On this ground he submits that the impugned order as contained in annexure-9 is illegal and fit to be quashed.

On the other hand, the learned counsel for the respondents submit that the letter no. 709 dated 4.3.1993 of the Bihar State Primary Education also provides for

similar and mandatory qualification i.e. trained for appointment as teacher in Government aided School including Government aided minority schools . It is stated that training was necessary qualification for appointment in private minority aided schools. The petitioner at the time of appointment did not possess the necessary qualification provided in the circular/order/rule it is evident that training was necessary qualification for appointment in Private minority aided schools.

Having heard the learned counsel for the parties, this court finds that the petitioner was matriculate and the Rule of the Bihar Primary School appointment Rule 1991 provides qualification of matric and the petitioner subsequently passed the training course on 14.5.2013 when the examination was held for the Sessions 1990-92.

In that view of the matter, the impugned order as contained in annexure-9 cannot be sustained in the eyes of law. The impugned order dated 17.12.2013 is set aside. Respondents are directed to accord the approval for the service of the petitioner in view of the annexure-4 which is the recommendation sent by the school to the respondent no.3.

This writ petition stands allowed.