

(2011) 12 PAT CK 0018
In the Patna High Court
Case No : CWJC No. 16017 of 2007

Dilip Kumar Suman and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Bihar Zila Parishad Madhyamik Awam Uchchatar Madhyamik Shikshak (Niyojan Awam Seva Sharta) Niyamawali, 2006 — Rule 4(iii)

Citation : (2012) 3 PLJR 338

Hon'ble Judges : Mihir Kr. Jha, J

Bench : Single Bench

Advocate : Rajendra Prasad Singh, for the Appellant; J.S. Arora, for the State, for the Respondent

Final Decision : Dismissed

Judgement

Mihir Kumar Jha, J.—Heard counsel for the parties. The prayer of the petitioners in this writ application is for considering the case for appointment on the post of Assistant Teacher by treating them to be trained candidates.

2. Learned Counsel for the petitioners has submitted that all the petitioners have completed their training course from Oxford College of Education, Kolkata which is affiliated to All India Education Society. He has further submitted that all the petitioners have undergone and completed the training course prior to N.C.T.E. Act, 1993 coming into force and as such, they would be entitled for appointment on the post of teacher in the State of Bihar. In this context reliance has also been placed on a judgment of the Division Bench in the case of Sri Mahendra Prasad Mehta vs. The District Superintendent of Education, Katihar & Anr., reported in 1985 PLJR 709.

3. Learned Counsel for the State, on the other hand, has submitted that the petitioners actually seek their appointment on the post of Assistant Teachers in terms of Bihar Zila Parishad Madhyamik/Uchchatar Madhyamik Shikshak (Niyojan Awam Sewa Sharta) Niyamawali, 2006, wherein as with regard to requirement of

teachers training it has been specifically provided that such two years teachers training course must be completed either from a recognized institute by N.C.T.E. or any recognized Training College prior to coming into force of N.C.T.E. Act. He has also highlighted that the question with regard to the College in question, namely, Oxford College of Education, Kolkata was specifically gone into by the authority pursuant to an order passed by this Court in C.W.J.C. No. 13383/2006 and C.W.J.C. No. 963/2007, whereafter the District Education Officer, Katihar had passed an order on 11.12.2007 holding that the training qualification undergone and completed from Oxford College of Education cannot be held to be one from a recognized institution for the purposes of appointment on the post of teachers in High Schools.

4. In the considered opinion of this Court the requirement of training qualification either for appointment of a teacher in High School being governed by the statutory Rules, its true intent has to be gathered from such Rules. The 2006 Rules so far it relate to qualification of training being common for High School Teacher, reads as follows:--

(underlining for emphasis)

5. From the reading of the underlined portion of aforesaid Rules it is clear that the qualification Bachelor of Education (B.Ed.), from a recognized institution before coming into force of N.C.T.E. Act therefore has to be acquired as a condition precedent for appointment on the post of teacher in the High Schools as per 2006 Rules. A recognized institution would be one which was either recognized by the University or by the State of Bihar. The institute in question, Oxford College of Education, is said to be affiliated and guided by All India Education Society. This Society is only registered by the Government of West Bengal under the Society Registration Act and there is nothing on record to show that the College in question was ever affiliated or recognized by any University or even by the State Government. To that extent the letter of the College dated 9.11.2006 in response to the query made by the District Education Officer, Purnea would itself unfold answer the credibility of such institution wherein it was stated that the Oxford College of Education was using the emblem as approved and registered by the Ministry of Human Resources Development, Govt. of India. The use of emblem will not mean it was a recognized institution by any University or even by the Govt. of India. Affiliation certificate of All India Education Society, a Society under the Society Registration Act, will also not confer the benefit of such institution of being approved or a recognized institution by a University. In any event the Govt. of Bihar has never recognized this Oxford College of Education, Kolkata as would be apparent from the letter of the Director, Research and Training dated 8th January, 2008 wherein it was clearly laid down that in the list of recognized institution for the purposes of training issued by the Govt. of Bihar even in respect of institutions of the State of West Bengal, the name of the institution in question, Oxford College of Education, Kolkata was not included and as such, the said college could not be treated to be

a recognized institution by the State of Bihar.

6. Counsel for the petitioner, however, was quite emphatic in his submission that the issue in question has been directly answered by the Division Bench in the case of Sri Mahendra Prasad Mehta (supra). From a reading of the said judgment it however becomes clear that first of all the case therein was for appointment on the post of teachers in Primary School relating a period when B.Ed qualification was not prescribed as an essential qualification under the Rules. For such post of Primary School teachers at the relevant point of time the qualification being not prescribed by any statutory Rules the Division Bench had in the case of Mahendra Prasad Mehta (supra) had only looked into requirement laid down in the advertisement which had provided that the applicant should be Matric or equivalent and trained. It was in this background that the basic training examination course from a College in Kalingpong in the State of West Bengal was considered to be sufficient only on the ground that since in the advertisement there was nothing mentioned about two years teachers training course, the petitioners of those cases could not be said to be ineligible. The reference of Article 460 of the Bihar Education Code by the Division Bench which was only a compilation of the circulars of the Education Department was made in order to test the proposition advanced by the counsel for the State in that case and it was held that the training degree obtained by a candidate in West Bengal could not be said to be unsuitable for the purposes of appointment as a trained teacher in a Primary School. As a matter of fact from the ratio of the said judgment it would be clear that not only the case decided by the Division Bench was with regard to teachers of Primary School where the requirement of being B.Ed. was not the condition precedent but also related to a non-statutory Rule where being a trained matriculate was only requirement without specifying nature of teachers training course. Such is not the position in the present case relating to appointment of teachers in High School under 2006 Rules where completing two years teachers training course from a recognized institution is a condition precedent and essential qualification and thus the ratio of the Division Bench judgment in the case of Mahendra Prasad Mehta (supra) is quite distinguishable and cannot be made applicable to the case of the petitioner.

7. As a matter the B.Ed. course being a Bachelor's course, its recognition can either be given when it is recognized by a University or a deemed University in terms of University Grants Commission Act. Prior to enforcement of N.C.T.E. Act, 1993 the State Govt. of Bihar had its own Act of the year 1981 and the power of giving recognition to such training institute was vested in the State of Bihar. The said institution, Oxford College of Education, having been never recognized by the State of Bihar, any degree obtained from the same could be recognized by the State of Bihar if it was a recognized institute by any University. As noted above, the Oxford College was never recognized by any University or even by the State of West Bengal It is this aspect of the matter which has been dealt at length by the authorities as would be apparent from the reading of Annexure-"A" to the counter affidavit in the order dated 11.12.2007 which was passed on

remand of C.W.J.C. No. 13383/2006 and C.W.J.C. No. 963/2007, relevant portion whereof reads as follows:--

8. It has to be noted that the copy of the said counter affidavit was served on the counsel for the petitioners on 21.8.2009 but there is no rejoinder to the same till date. In fact there is complete want of any material to show that the Oxford College of Education was ever recognized by any University or deemed University. Any institution opened by a Society registered under the Society Registration Act by itself cannot claim to be a recognized and/or approved institution in terms of Rule 4(iii) of the Bihar Zila Parishad Madhyamik Awam Uchchar Madhyamik Shikshak (Niyojan Awam Seva Sharta) Niyamawali, 2006. That being so, this Court does not find any error in the approach of the respondents in not recognizing the training course undergone by the petitioners from Oxford College of Education, Kolkata. As a matter of fact the certificate produced by the petitioners itself would go to show that it was not a recognized institution and the petitioners had also not completed the Bachelor of Education Course inasmuch as they are said to have appeared in Seniors Teachers Training Course and had passed the examination from Oxford College of Education. The issue as to whether Seniors Teachers Training Course is equivalent to Bachelor of Education Course again cannot be gone into by this Court where in the Rules there is no provision for equivalence and the only requirement is that a person must be having degree of Bachelor of Education (B.Ed.). Thus, this Court will have no difficulty in holding that the petitioners do not possess the prescribed qualification for being appointed on the post of teachers in the High School as per 2006 Rules. This writ application is, accordingly dismissed.