
(2005) 05 JH CK 0044

In the Jharkhand High Court

Case No : Writ Petition (S) No. 852 of 2005

Gopal Prasad and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-05-2005

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 14(1), 14(3), 14(4), 16

Citation : (2005) 53 BLJR 2149 : (2005) 3 JCR 219

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Rajiv Ranjan, Abhay Kumar Mishra and Shashi Kant, Sanjay Piprawall, for the Appellant; Shipra Shalini, JC to SC (Mines), for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by the petitioners for a direction on the respondents to consider their cases for appointments as Primary Teachers under the State of Jharkhand.

2. According to the petitioners, they are eligible for appointment to the posts of Primary Teacher and though they have competed in the written test for appointment to the posts of Primary Teacher, held by Jharkhand Public Service Commission. Ranchi (hereinafter to be referred as "JPSC"), they have not been provided with the letters of appointment whereas the persons, below them in the merit list, have been appointed.

3. The case of the petitioners is that they, having passed B. Ed. Examination from Ranchi University, are eligible for appointment to the posts of Primary Teacher. In pursuance of an advertisement, published by the J.P.S.C. in the month of August, 2002, the petitioners applied for appointment as Primary Teachers in Nationalized Primary Schools. They were allowed to appear at the written competitive test, held on 27th May, 2003. Thereafter, results of the successful candidates were published in the month of November, 2003 and the

petitioners were declared successful. However, letters of appointment have not been issued to them, though the persons, below them in the merit list, have been appointed.

4. When the case was taken up, learned counsel for the State relied on a judgment dated 4th March, 2004, rendered by learned single Judge of this Court in the case of Suresh Kumar and Ors. v. State of Jharkhand and Ors., W.P. (S) No. 588 of 2004, and analogous cases. Those cases were dismissed on the ground that the Institute from where those petitioners passed Teachers Training Examination was not recognized by the National Council For Teachers Education.

5. The judgment, rendered in W.P. (S) No. 588 of 2004, Suresh Kumar and Ors. v. State of Jharkhand and Ors. and analogous cases fell for consideration before a Division Bench of this Court in L.P.A. No. 235 of 2004, Dilip Kumar Gupta and Ors. v. State of Jharkhand and Ors. and analogous cases. In the said case, Division Bench of this Court having taken note of expression "Recognized Training Institute", held as follows :

"Therefore, on a proper construction of expression "Recognized Training Institute" (Manyata "Prapt Prakshikshan Sansthan), as occurring in Rule 2 (kha) of Rules, 2002, I hold that the expression "Recognized Training Institute" means a Training Institute, recognized or established either by State Government or Union of India or Statutory Bodies, such as, N.C.T.E., U.G.C. etc./ Organizations, maintained and controlled by either State Government or Central Government or a Training Instituted, recognized or affiliated by a University or a Board for imparting Teachers Training Course.

XX XX XX XX XX In the facts and circumstances, having regard to the guidelines, issued by the State from time to time, and the provisions of the Ordinances, Acts and Rules, as discussed above, in my considered opinion :--

(a) "Recognized Institute" means an institution recognized or established by State Government or Union Government or by Statutory Bodies/Organizations, maintained and controlled by either State Government or Central Government or recognized University or affiliated by a recognized University for imparting education (training herein);

(b) After 1st July, 1995 or at best for another period of six months i.e. after 1st January, 1996 nobody, offering a course or training in Teachers Education, can run the institute without prior recognition by the N.C.T.E., there being bar to run such institute under Sub-section (1) to Section 14 of the N.C.T.E. Act, 1993;

(c) Even if a Teachers Training Institute is affiliated to a University, recognized by the University Grant Commission, no Teachers Training Examination can be held by the University whether provisional or otherwise, for the students of such Teachers Training College after 1st January, 1996, if the institute is not recognized by the N.C.T.E., in view of Clause (b) to Section 16 of the N.C.T.E. Act, 1993;

(d) A person, who has completed and obtained a Degree/Diploma/Certificate in Teachers Training Course prior to 31st January, 1996 i.e. six months after promulgation of the N.C.T.E. Act, 1993 from an institute, recognized or established by State Government or Union Government or by Statutory Bodies/Organizations, maintained and controlled by either State Government or Central Government or recognized University or affiliated by a recognized University for imparting Teachers Training Education, is eligible for appointment to the post of Primary Teacher, if otherwise found fit; and

(e) Since 4th September, 2001 i.e. the date N.C.T.E. (Determination of Qualification and Recruitment of Teachers) Regulation, 2001 came into force, no untrained person can be appointed to the post of Primary Teacher."

6. The Division Bench also took note of the relevant provisions i.e. 2(kha) of the Jharkhand Primary School Amendment Recruitment Rules, 2003 as also Sections 14 and 16 of the National Council For Teachers Education Act, 1993 (Act No. 73 of 1993) and held as follows :

"2. Definition--

XXX XX XX (kha). "Trained" means those persons, who have got and passed the following training from a recognized Training Institution :--

(i) Two years teachers training, or

(ii) B.Ed./Dip in Ed./Dip. in Teach

...XX XX XX XX

"14. Recognition of institutions offering course of training in teacher education :--

(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations.

Provided that an institution offering a course of training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

(2) The fee to be paid along with the application under Sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under Sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall--

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or

training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such condition as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in Sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing :

Provided that before passing an order under Sub-clause (b) the Regional Committee shall provide a reasonable opportunity to the concerned institutions for making written representation.

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under Sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every institution in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under Clause (b) of Sub-section (3).

(6) Every examining body shall, on receipt of the order under Sub-section (4)--

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

xxx xxxx xxx xxx "16. Affiliating body to grant affiliation after recognition or permission by the Council :--Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day :--

(a) grant affiliation, whether provisional or otherwise, to any institution; or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognized institution.

Unless the institution concerned has obtained recognition from the Regional Committee concerned u/s 14 or permission for a course or training u/s 15."

XX XX XX XX XX Taking into consideration the facts and circumstances of the case, the statutory Rules, 2002 and the decisions, rendered by the Supreme Court, as discussed above, in my view no ground is made out to interfere with the orders passed by the Secretary, Human Resources Development Department (Primary Education), Govt. of Jharkhand, Ranchi, as affirmed by the learned single Judge or to grant any relief to the appellants-petitioners. The appellants-petitioners, having no requisite qualification of Teachers Training, as per Rule 2 (kha) of Rules, 2002, many of them having obtained training qualification from unrecognized institutions and one institution even found fake by the U.G.C. and

the Degree Diploma Certificate obtained in other cases are not being equivalent to Trained Graduate Teachers Training, no relief can be granted to any of them. There being no merit, all the appeals and the analogous writ petition are hereby dismissed. However, in the facts and circumstances, there shall be no order as to cost."

7. In this case, all the petitioners have passed their respective B.Ed. Examination prior to 1st July, 1995 from Ranchi University, Ranchi. The Institute/College, namely, Karim City Teachers Training College, is a College, affiliated to Ranchi University. In such a situation, the petitioners having been granted B.Ed. Degree by the statutory body i.e. Ranchi University, it is not open to the respondents to reject the claim of the petitioners, giving reference to the other cases. If the petitioners have competed in the written test, conducted by J.P.S.C., their names have been recommended by the J.P.S.C. and are eligible, the respondents should consider their cases for appointment to the posts of Primary Teacher, in terms with the advertisement, in question.

8. The case is, accordingly, remitted with a direction to the respondents to consider the case of the petitioners for appointment to the posts of Primary Teachers and to pass appropriate order(s) within a period of one month from the date of receipt/ production of a copy of this order.

9. The writ petition is, accordingly, allowed with the aforesaid observations and directions.