

(1992) 06 PAT CK 0004

In the Patna High Court

Case No : C.W.J.C. Nos. 4919 of 1982, 5472 of 1984 and 2720 of 1990

Indra Dutta Sharma and Another

APPELLANT

Vs

Bihar Sanskrit Shikcha Board, State of Bihar and Others

RESPONDENT

Date of Decision : 30-06-1992

Acts Referred:

Citation : (1992) 06 PAT CK 0004

Judgement

S.B. Sinha, J.—All these three writ applications were taken up for hearing together and are being disposed of by this common judgment. As the facts of all these cases are interrelated, the same may first be noticed.

2. Shambhu Prasad Verma (hereinafter to be referred as "Verma"—the Petitioner of C.W.J.C. No. 4919 of 1982 and 5472 of 1984) is an M.A.B.L. and also holds a Diploma in Education. He joined the Raj Sanskrit High School, Bettiah as an Assistant Teacher on 24-2-1965.

He was allegedly promoted as Assistant Headmaster of the School on 17-7-1965 by the Managing Committee of the said school. "Verma" claimed himself to be the senior most Assistant Teacher and allegedly was promoted to the post of Headmaster by the Managing Committee of the School by a resolution dated 29-7-1980 upon superannuation of the incumbent of the said post.

The said resolution dated 29-7-1980 is contained in Annexure-2 to the writ application. The aforementioned resolution was sent to the Chairman of the Bihar Sanskrit Shikcha Board for his approval.

3. By the impugned order dated 25-6-1981 the promotion of "Verma" to the post of Headmaster was not approved allegedly on the ground that he did not possess the requisite qualification prescribed therefore (Annexure-3). "Verma" was therefore, directed to handover charge of the post of the Headmaster to Shri Indra Dutt Sharma who is Respondent No. 5 in C.W.J.C. No. 4919 of 1982 and C.W.J.C. No. 5472 of 1984 and Petitioner in C.W.J.C. No. 2720 of 1990 (hereinafter to be referred as "Sharma"), by an order dated 13-3-1982

(Annexure-4).

4. Verma thereupon filed an application before the Respondent No. 4 requesting him to furnish reasons for asking him to handover charge. The Respondent No. 4 sent a reminder of his earlier order to "Verma" by his letter dated 7-4-1982 (Annexure-5). The Respondent No. 4, however, by an order dated 19-4-1982 stayed the operation of the order dated 7.4.1982 (Annexure-6). "Verma", thereafter was placed under suspension by an order dated 24-4-1982 whereupon he filed a writ petition in this Court being C.W.J.C. No. 3578 of 1982 challenging the said order of suspension as contained in Annexure-7 to the writ application and also against some other orders. The said writ petition was placed for admission on 6-9-1982. In that writ application a counter affidavit was filed wherein a copy of the order dated 8-10-1982 was annexed, in terms whereof the order of suspension passed as against Verma is stated to have been withdrawn.

5. Respondent No. 1 by another order dated 14-11-1982 allowed Verma to work as acting Head Master of the School. It has been contended by Verma that he is qualified to hold the post of the Headmaster as the degree of "Acharya" possessed by him is equivalent to that of "M.A." Verma has further contended that one Shri Krishnanandan Prasad Singh, who held the degree of B.A. Trained only, had been appointed as Head-master in Nimnabark Sri Krishna Madhavand Sanskrit High School, Dhanamath, Patna by the State of Bihar and thus the Petitioner should also be held to be qualified for holding the post of "headmaster".

6. In C.W.J.C. No. 4919 of 1982 Verma questions the legality of aforesaid order dated 25-6-1981 (Annexure-3).

7. In C.W.J.C. No. 4919 Verma has merely sought for issuance of an appropriate writ for quashing the order dated 7-4-1982 which is contained in Annexure-5 thereto in terms whereof he was asked not to forward the application forms of the Student for their appearance in examinations as Sharma had been authorised to act as the Headmaster-in-charge of the aforementioned School.

8. In C.W.J.C. No. 2720 of 1990 Sharma has contended that he is a trained graduate and holds a degree of Master of Arts and Bachelor of Arts (Hons) in Sanskrit and he is a holder of the degree of "Sahitya" and "Vyakarnacharya". He was appointed as an Assistant Teacher in the School on 19th July, 1967. The aforementioned school came under the control of the Bihar Sanskrit Education Board (hereinafter referred to be as "the Board").

9. On 1-12-1982, the then Assistant Secretary of the Chairman of the Board by a letter addressed to the District Magistrate and Deputy Development Commissioner, Bettiah, directed Sharma to act as officiating Head Master of the School and directed Verma to act as an Assistant Teacher. The aforesaid authority directed Verma to handover charge but he declined to do so on the ground that he had filed a writ application. However, the Deputy Collector went to the said school and in presence of various authorities directed Verma to handover charge

of the post of officiating Headmaster of the said school to Sharma.

10. On 25th March, 1988 the Joint Secretary to the Department of Education issued a letter to the District Magistrate, Bettiah stating therein that as Verma has filed C.W.J.C. No. 4919 of 1982 and the same has been admitted; he should be handed over charge of the post of officiating Headmaster. Thereafter legal advice was obtained from the Government Pleader and ultimately, by an order dated 27th March, 1990 the Special Director (Secondary Education), Government of Bihar, by reason of the impugned order (Annexure-1) directed the District Education Officer to make arrangement so that Verma could assume charge from Sharma in respect of the post of officiating Head Master of the School. Sharma thereupon filed the said writ petition.

11. In C.W.J.C. 4919 of 1982 this Court while admitting the writ application rejected the prayer of Verma for grant of stay by its order dated 21-12-1982.

However, in C.W.J.C. No. 2720 of 1990 a Division Bench of this Court by an order dated 18-5-1990 directed maintenance of status quo. In this view of the matter, there is no doubt that Sharma is continuing to function as officiating Head Master of the School.

12. Mr. Rajendra Prasad Singh, learned Counsel for Verma in support of C.W.J.C. No. 4919 of 1982 has raised a number of contentions.

13. The learned Counsel submitted that in view of the fact that no rules have yet been framed by the State of Bihar laying down the conditions of service of teachers of the school in terms of the provisions of Bihar Sanskrit Shikcha Board Act, 1981 (hereinafter referred to as "the Act") the question of laying down of any qualification by the Board for holding the post of Headmaster does not arise.

14. Mr. Singh, in this connection, has drawn my attention to a decision of mine in Chandra Nath Thakur v. Bihar Sanskrit Shikcha Board reported in 1988 PLJR 867 and submitted on the basis thereof that Respondent No. 1 has no jurisdiction to pass the impugned order in exercise of his power conferred u/s 11 read with Section 25(4) of the Act.

15. It was further submitted that in any event as the degree of "M.A." is equivalent to "Acharya", the impugned order must be held to be vitiated in law as the Petitioner must be held to possess the requisite qualification. It was submitted that in any view of the matter, as the Managing Committee of the School had promoted "Verma" to the post of Headmaster, the Respondent No. 1 had no authority or jurisdiction under the Act to supersede the said order by reason of the impugned order (Annexure-3).

16. Mr. Tara Nath Jha, learned Counsel appearing for Verma in C.W.J.C. No. 5472 of 1984, submitted that the Controller of Examination of Bihar Sanskrit Shikcha Board, Patna had no authority or jurisdiction to issue the impugned letter dated 22-8-1984 as contained in Annexure-5 to the said writ application as he could not have decided as to whether Verma was continuing to hold the post of Acting

Headmaster of the school or not particularly in view of the fact that the Education Commissioner had already directed that till disposal of C.W.J.C. No. 4919 of 1982, Verma would continue to function as in-charge Headmaster.

17. Mr. Anant Vijai Singh, learned Counsel for Sharma in C.W.J.C. No. 2720 of 1990, on the other hand, submitted that Verma does not have the requisite qualification to hold the post of Head Master which Sharma admittedly possesses.

18. The learned Counsel submitted that in view of the fact that as no order of stay was passed by this Court in C.W.J.C. No. 4919 of 1982, the State could not have directed Sharma" to hand over charge in view of the fact that he took over charge of the post of Headmaster of the school in terms of the order of the Board itself.

19. Mr. Ramanand Kumar, learned Counsel appearing on behalf of the Board Submitted that as the entire control of Sanskrit Education has vested in the Board, it has the requisite statutory authority to lay down the minimum qualification of the teachers and headmasters thereof so as to maintain the standard of education in Sanskrit schools. Mr. Kumar further submitted that the Sub-section 2 of Section 6 of the Act empowers the Board to pass all orders which are necessary for effective control of the Sanskrit institutions and thus in the terms of Sub-section 4 of Section 11 of the Act, the Chairman of the Board is also empowered to pass such order which is required to be passed in absence of the Board for the purpose of to resolve any dispute if the Board had not been holding its meetings regularly. Learned Counsel further submitted that this power can be exercised by the Chairman in terms of Sub-section 4 of Section 11 of the Act subject to the conditions laid down therein.

20. Before proceeding to consider the rival contentions of the parties, the history of the legislative enactments relating to imparting of Sanskrit Education in the State of Bihar as has been found in Chandra Nath Thakur's case (from paragraphs 14 to 25) may be noticed:

Prior to 1990, there was no Act with regard to Sanskrit education in the State of Bihar. In the Bihar Education Board in the Chapter VIII certain provisions were made for imparting Sanskrit education in this State. There were two kinds of recognized Sanskrit institutions:

(1) Sanskrit Vidyalaya or tols which prepared candidates for Prathma, Madhyama and Acharya Examination.

(2) Primary Sanskrit Schools which taught Sanskrit in addition to the departmental vernacular curriculum up to a lower primary or upper primary standard.

The control of these Vidalaya was exercised through the Bihar Sanskrit Association, which conducted their examination. This Association consisted of two parts. The Sanskrit Parishad and the Sanskrit Council, each body having the same President and Secretary. The Parishad was a longer body consisting of 16

members only. The functions of the Council amongst others were (1) to conduct examination, (ii) to issue titles and certificates, (iii) to advise Government in regard to (a) the course of study for various Sanskrit examinations and in various classes of Sanskrit institutions; (b) the Rule to be framed for Sanskrit examinations, (c) matters affecting sanskrit education generally and (d) to recognise and to propose for the approval of Government Rules regulating their recognition and many other matters which are not relevant.

The Kameshwar Singh Dharbhanga Sanskrit University Act (VI of 1960) came into force on the 18th March, 1960. This Act defined Bihar Sanskrit Association in Section 2(d) as the Sanskrit Association constituted by the State Government for exercising control and superintendences over institutions other than those imparting instructions in Sanskrit up to the Madhyama standard. By this Act, the University was given power to give degrees and to hold examinations. Further the University was given the power of affiliation of Sanskrit institutions, but it was not given the power of the same.

Under Section 44 of the Act, the Bihar Sanskrit Association was dissolved and its power and duties were to be exercised and performed by the University or the Board of Sanskrit Education, as the case may be, in such manner as the State Government may by order in writing direct in this behalf.

Thereafter, the Bihar Sanskrit Shiksha Board was constituted vide State Government Resolution No. 322 dated 24-1-1961. This Board was also known as Bihar Sanskrit-Shiksha Parishad and it controlled Sanskrit Education up to Madhyama Standard. But the examinations were conducted by the University.

By Kameshwar Singh Darbhanga Vishwavidyalaya Act of 1962 (Act 21 of 1965) the earlier Act of 1960 was repealed. This Act also defined the Bihar Sanskrit Association: and the Board of Sanskrit Education (Sanskrit Shiksha Parishad) in the same terms as defined in the earlier Act. By this Act also the University was not given the power of recognition of Sanskrit Institutions. From Section 43 of the Act it appears that the power of recognition of Sanskrit Institutions formerly lay with the Bihar Sanskrit Association and, therefore, the same was transferred to the Board of Sanskrit Education.

The Bihar State Universities Act being Act No. 23 of 1976 came into effect from the 31st December, 1976. This Act has repealed the earlier Act of 1965 and has confined the jurisdiction of Sanskrit University to college imparting education above Madhyama Standard.

As mentioned hereinbefore, thereafter, the Government of Bihar promulgated several Ordinances in the years 1980 and 1981 culminating in enactment of the Bihar Sanskrit Shiksha Board Act, 1981 (Bihar Act XXXI of 1982) which came into effect from 24-1-1982. Pursuant to the provisions of the Bihar Sanskrit Shiksha Board 2nd Ordinance of 1981, the present Bihar Sanskrit Shiksha Board was constituted on 28th May, 1981.

21. It has been admitted at the bar that no rule has yet been framed under the Bihar Act XXXI of 1982 nor any rule was framed under any of the Ordinances which were promulgated prior thereto. English version of the Bihar Act XXXI of 1982 is not available. However, the learned Counsel for the parties drew my attention to the Bihar Ordinance No. 144 of 1980 namely the Bihar Sanskrit Education Board Third Ordinance, 1980, the English version whereof is available. As the provisions of the Act and the said ordinance are absolutely identical, I prefer to refer to the aforementioned ordinance for the purpose of considering the intent and purport of the provisions of the Act.

22. The said Act was enacted in order to provide for the constitution of an autonomous Board for Development and better supervision of Sanskrit education up to Madhyama Standard in the State of Bihar.

Section 6 of the said Act inter alia provide for the powers and duties of the Board, which includes grant of recognition to the Sanskrit Institutions.

23. u/s 13 of the said Act, a fund has been created known as Sanskrit Shiksha Nidhi which in terms of Section 14(ka) thereof, has to be utilised for payment of salary to Sanskrit teachers and other allowances to teaching and non-teaching staff of the recognised schools. In terms of clause (Angu) of this Section, the Board has to make payment of contribution towards pension, gratuity and provident fund of the teachers and other employees of recognised Sanskrit Schools. Section 20 of the said Act provides that services of teaching and non-teaching staff of recognised Sanskrit Schools and tols shall be taken under the Board with effect from the date notified by the State Government in the official Gazette and the teacher and non-teaching staff be treated to be under the service of the Board from that date and their services shall also be treated to be under the Board.

In terms of the aforesaid provisions, in the event, such notification is published in the Official gazette, the services of such persons shall be controlled by the Board in tonus of the Rules which may be framed in that regard.

In terms of Section 21 of the said Act, the State Government shall arrange to make appointment and promotion to teachers by notification made in the official gazette and prescribed rules and procedures therefor. In terms of Section 22(2) (Ta) of the said Act, the State Government has given the power to make rules regarding the service conditions and appointment to teachers and other staff of the recognised Sanskrit Schools and Tols. As mentioned hereinbefore, no rule has been framed by the State of Bihar as yet in terms of Section 22 of the aforementioned Act.

By virtue of the provisions of Section 25 of the Act with effect from the date, the Board is established and the Bihar Sanskrit Parishad constituted under Government Notification No. 322 dated 24-1-1961 has been dissolved thereby. However, u/s 25(4) of the said Act, all tols and Schools which were recognised by the said Parishad shall also be deemed to be recognised under the said Act, until

the expiration of the period of recognition subject however to the power of the Board to withdraw recognition in accordance with the provisions of the said Act.

24. However it may be mentioned that no notification in terms of Section 14 of the Act has yet been issued by the State.

25. In Chandra Nnith Thakur's case (supra) one of the questions formulated was as follows:

Whether the provisions of the Bihar Sanskrit Shiksha Education Board Act, 1981 confer any power upon the Board to approve or disapprove disciplinary action taken against a teacher by the Managing Committee of the said School?

Upon taking into consideration various decisions of the Supreme Court of India as also of this Court, it was held:

Taking into consideration all the aspects of the matter, I am of the view that the Board cannot exercise any disciplinary power in regard to teaching and nonteaching staff nor has it any power to grant any approval in respect of the order of dismissal against the teacher passed by the Managing Committee.

(Underlining is mine for Emphasis)

In these writ applications, this Court is not concerned with the aforementioned question.

26. The principal question which arises for consideration is as to whether the Board has the jurisdiction to lay down the qualification for appointment of a teacher/headmaster in a Sanskrit School.

27. In terms of the provisions of the Act of 1981, the institutions imparting education in Sanskrit or for upliftment of the said language were required to be recognised by the Board. One of the duties of the Board under the 1981 Act was to grant recognition to Sanskrit Schools, of course with the approval and within the number fixed by the State Government.

By reason of an Ordinance being Ordinance No. 32 of 1989 entitled The Bihar Non-Government Sanskrit Schools (Taking Over of Management and Control) Ordinance, 1989, the School mentioned in the Schedule II thereof have been taken over by the State of Bihar. The institution in question admittedly has also been taken over in terms of the aforementioned Ordinance.

28. The said Ordinance has since been repealed and replaced by a Legislative Act. There cannot be any doubt that the Legislature is empowered to enact statute in terms whereof the State/Statutory Authority may exercise control over the institution recognised by it. The State has adopted a policy decision in respect of the conditions of service of Non-Government Sanskrit High School (Condition of Services) Rules, 1976. The said rules are, however, not statutory in nature.

29. As noticed hereinbefore a fund has been created under its Act for payment of

salary to the teacher and other allowances to the teaching and non-teaching staff.

30. The Supreme Court as also this Court in various decisions have since held that an educational institution imparting education to general public and which receive aid/grant from the State would be amenable to writ jurisdiction of the High Court, as they discharge public functions. These institutions are also governed by and controlled under a legislative Act.

The aforementioned 1981 Act was enacted to promote Sanskrit Education in the State of Bihar. As noticed hereinbefore, the said Sanskrit Educational Institutions are under the control and supervision of the Board.

31. In *Shri Mukta Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust and Ors. v. V.R. Rudani and Ors.* reported in 1989 SC 1607, the Supreme Court has held that in view of the provisions of law involved therein, the appointment of teacher could be subject to the regulations imposed thereunder. It was also held that Schools which discharge public duty are amenable to writ jurisdiction. It was held that the terms of the body concerned is not much relevant and what is relevant is the nature of the duty imposed on the body.

32. Similar view has been taken in the decision reported in a case of *Miss Raj Soni Vs. Air Officer in Charge Administration and another, . In All Bihar Christian Schools Association v. State of Bihar* reported in 1988 PLJR 17 S.C ., it has been held that even; minority institutions are subject to regulatory provisions for ensuring educational excellence, conditions of employment of teachers as also ensuring health, hygiene, discipline and other matters. Reference in this connection may be made to *Al Karim Educational Trust and Another and All India Janasangh, Bihar State Branch and Others Vs. The State of Bihar and Others .*

33. This Court in *Gopalji Sahay v. State of Bihar and Ors.* CWJC No. 1409 of 1991 (R) has held that a writ petition filed by a teacher of a minority educational institution which had been receiving grant in aid from the State Government and recognised by the University, is maintainable. Laying down the qualification of a teacher in order to maintain the standard of education in an institutions is, in my opinion, permissible by way of executive instructions.

The word "control" is capable of being given different meaning of different context See *Banaras Hindu University, Varanasi and another Vs. Dr. Indra Pratap Singh, .*

In *Comptroller and Auditor General of India and others Vs. Mohan Lal Mehrotra and others, ,* it has been held that reservations of post for Scheduled castes and Scheduled tribes being enabling provision, they can be made by administrative orders also.

34. There cannot, therefore, be any doubt whatsoever that although this Court in CWJC No. 2084 of 1992 (*Kasi Prasad Sharma and Ors. v. State and Ors.*) disposed of on 10th August, 1987 which has been followed in *Chandra Thukur"s*

case has held that 1976 Rules do not have any statutory force but in my opinion the Board had the requisite competence to lay down the qualification for appointment of an Assistant teacher/Headmaster of a recognised Sanskrit School. Such control over the recognised Sanskrit School by the Board, in my opinion, is permissible.

Rules 11 and 12 of 1976 read as follows:

11- iz/kkuk/;kid in ds izkfFkZ;ksa dks laLd`r mPp fo|ky;ksa esa i<+kbZ tkus okys laLd`r fo"k;ksa esa ls fdlh ,d fo"k; esa de ls de mPp f}rh; Js.kh esa vkpk;Z ijh{kks?kh.kz rFkk fdlh izLohd`r fo|ky; ;k gkbZ Ldwy esa de ls de 10 o"kksZa ds v/;kiu dk vuqHko gksuk vko";d gS vFkok i<+kbZ tksus okys fdlh ,a laLd`r fo"k; esa izkphu vkpk;ksaZ ds lkFk laLd`r vkulZ ds lkFk ch- ,- ;k laLd`r ls ,e- ,- vFkok i<+kbZ tkus okys laLd`r fo"k;ksa esa ls fdlh ,d fo"k; esa ? vaxzsth ds lkFk ? m? kh.kZ uohu vkpk;ksZa ds fy, fdlh izLRkkfor fo|ky; ;k gkbZLdwy esa de ls de 10 o"kksZa ds v/;kiu dk vuqHko vko";d gS A izf"kf{kr izkfFkZ;ksa dks izkFkfedrk nh tk;sxh A

laLd`r f"i{k.k ,oa izf"i{k.k lEc/kh fo"ks"i{k vuqHko izkIr fo}ku ds fy, fo"ks"i{k fopkj fd;k tk ldrk gS A

iz/kkuk/;kid in ds fy, mDr vf/kfu;e U;wure ;ksX;rk ls mPprj ;ksX;rk okys O;fDr dks izkIr djus dk iz;Ru loZFkk oka{k.kh; gksxk A

12- laLd`r mPp fo|ky;ksa esa lgk;d f"i{k{kdkSa dh U;wure ;ksX;rk laLd`r fo"k;ksa ds fy, vkpk;Z rFkk vk/kqfud fo"k;ksa ds fy, Lukrd ;k vaxzsth ds lkFk m?kh.kZ uohu "kkL=h ijh{kks gksxh A ;ksX; ,oa vuqHkoh f"i{k{kdkSa dks izkFkfedrk nh tk;sxh A

35. Further as now the school in question has been taken over by the State, it therefore, would become entitled to appoint/continue in service only such teachers who hold in requisite qualifications therefor. In Chandra Thakur's case it was found as of fact that no notification had been issued by the State of Bihar in terms of Section 20 and 21 of 1981 Act, nor any rule was framed u/s 22 thereof and in that situation it was held that the Board did not have any disciplinary power in respect of a teacher appointed in a Sanskrit School. Such is not the position here.

36. Further as indicated hereinbefore, the power to lay down minimum qualification for appointment of a teacher being within the ambit of the control of the Board, such exercise of power by the Board cannot be held to be illegal or without jurisdiction. For that purpose, the Board is also entitled to issue administrative instructions.

The question as to whether "Verma" or "Sharma" holds the requisite qualification or not would depend upon the decision of the State.

37. In Md. Sharje Alam v. State of Bihar CWJC No. 4708 of 1989 upon which reliance has been placed by Mr. Singh, it was held that a person having a

"Foqania" degree which is equivalent to "Matriculation" cannot be preferred in relation to a candidate who has obtained a Master's Degree in Urdu as "Maulvi" is equivalent to a degree of "I.A.", whereas, "Alim" is equivalent to "B.A." and "Fazil" is equivalent to "M.A." Such a direction was held by this Court to be arbitrary and violative of Article 14 of the Constitution of India. That decision, therefore, has no application to the facts and circumstances of the case.

38. The Circular Letter dated 25-9-1974 relied upon by Shri Singh has prima facie no application in the facts and circumstances of the case inasmuch as in terms thereof it has inter alia been provided that under the new educational system degree of "Acharya" (without English) would be considered as being equivalent to M.A. Sanskrit, for the purpose of Sanskrit teaching and inspection of Sanskrit establishment but for other purpose the same would be equivalent to I.A. or B.A. Part 1. The Said circular, therefore, does not say that a person holding a Master's degree would be entitled to appointment in the post of Headmaster as the same is equivalent to the Diploma or degree in Acharya. No other circular of the State of Bihar touching the aforementioned matter has been brought to my notice and thus I have no other option but to direct the State to pass a suitable order upon taking into consideration all the relevant circulars and the policy decision of the State in this behalf.

39. The question, therefore, as to whether Verma and/or Sharma hold requisite qualifications for holding the post of Headmaster or not which must now be examined by the Special Director, Secondary Education, in the light of the relevant Government Notification as also the provisions of the Act whereby the school in question has been taken over by the State. It has also to be considered by the said authority as to whether Verma possessed minimum qualification when he was promoted to the post of Headmaster by the Managing Committee of the school in question. It is also high time that the State must take a final decision for appointment of a regular Headmaster upon considering of the case of all candidates eligible therefor.

40. The argument of Mr. Rajendra Prasad Singh to the effect that another person has been allowed to hold the post of Headmaster although he merely possessed a degree in B.A., has to be rejected 11 or the simple reason that if an illegality has been committed by the State in that case, the same by itself cannot be a ground for committing another illegality. The Special Director should, while determining the question, must, therefore, consider all aspects of the matter and decide the said question in terms of the policy decision of the State.

41. In this view of matter, CWJC No. 4919 of 1982 and CWJC 2720 of 1990 are disposed of with the direction to the Special Director, Secondary Education to consider the case of Verma and Sharma respectively in the light of Government Notification as also in terms of the provisions of the aforementioned Act. As the dispute has been pending since long, it is expected that the Special Director, Secondary Education would dispose of the matter at an early date and preferable within two months from the date of receipt of a copy of [his judgment after

giving an opportunity of hearing to the Board as also to both Verma and Sharma.

42. So far as CWJC No. 5472 of 1984 is concerned, the only question raised is as to whether the Controller of Examination had the competence to pass the order impugned therein as the State of Bihar itself directed that Sharma shall continue to act as Headmaster. Such a direction was made by the State in view of the pendency of the CWJC No. 4919 of 1982. The examination in respect of the Sessions 1983-84 is also over. The question, therefore, raised at the bar is wholly academic and, thus, it is not necessary to decide the said question at this stage inasmuch as to whether Sharma and Verma or any other person who may be appointed as the Headmaster on a regular basis would evidently be entitled to submit fees and forms to Board in respect of the student of the school. It is now well known that this Court does not issue any futile writ.

43. These writ applications are disposed of with the aforementioned directions but without any order as to costs.