
(2013) 04 PAT CK 0004
In the Patna High Court
Case No : CWJC No. 7268 of 2013

Mamta Kumari and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-04-2013

Acts Referred:

Citation : (2013) 3 PLJR 355

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Judgement

Ahsanuddin Amanullah, J.—Heard learned counsel for the petitioner. The petitioners are aggrieved by the order dated 9th February, 2013, of the respondent No. 7, directing for cancellation of selection/appointment due to the reason that their appointment was made on the basis of qualification of Madhyama Vishard from Hindi Sahitya Sammelan, Allahabad and the consequential order dated 13th February, 2013, by the respondent No. 11, directing such implementation as well as order dated 3rd March, 2013, by the respondent No. 11, cancelling the selection of such teachers. The petitioners are covered under such directions/orders of cancellation of their selection.

2. Learned counsel for the petitioners submits that though the petitioners were appointed on the basis of their qualification of Madhyama Vishard from Hindi Sahitya Sammelan, Allahabad but they have also passed intermediate examination from the Bihar Intermediate Education Council, Patna and only because of better marks in the Madhyama Vishard examination, they had relied on such degree at the time of selection. It is submitted that at the relevant time the said degree was not derecognized for consideration of selection/appointment of teachers under the Bihar Panchayat Primary Teachers (Employment and Service Condition) Rules, 2006 (hereinafter referred to as the "Rules"). It is further submitted that the petitioners have continued discharging their functions without any complain from any quarter and only because of the unnecessary controversy created, their selection has been set aside which, according to him,

is unsustainable in law. Learned counsel has also drawn the attention of this Court to the order dated 27th February, 2012 passed by a co-ordinate Bench of this Court in C.W.J.C. No. 12695 of 2008 in which it has been held that even though a person may have possessed degree equivalent to Intermediate, and if the same is not recognized, then the appointment has to be considered on the relevant merit between the candidates on the basis of the recognized Secondary (Metric), qualification. Learned counsel has also relied on the decision of a co-ordinate Bench of this Court dated 28th February, 2013 in C.W.J.C. No. 1919 of 2013 in which it has been held that the B. Ed. training of Madhyama Vishard from Hindi Sahitya Sammelan, Allahabad prior to its de-recognition by the State Government in August, 2008 cannot be held to be invalid. Learned counsel submits that the cause of issuance of the impugned orders is the result of the order dated 19th December, 2012 passed by a co-ordinate Bench of this Court in C.W.J.C. No. 18732 of 2012 alongwith C.W.J.C. No. 15858 of 2012 in which the Principal Secretary, Department of Education was directed to hold enquiry and satisfy himself if any person from the Hindi Sahitya Sammelan, Allahabad was continuing to work as Primary Teacher after the pronouncement of judgment in the case of State of Bihar vs. Mamta Kumari reported in 2010 (4) P.L.J.R. 318. Learned counsel submits that the present case is distinguishable from the decision of the Court dated 19th December, 2012 inasmuch as the petitioner did have Intermediate qualification though the said degree was not produced or relied upon while applying and this aspect also has to be considered before such drastic action to cancel their selection can be taken. Upon going through the pleadings and materials on record, this court finds that the issue as to recognition of the degree sought to be shown equivalent to Intermediate from Hindi Sahitya Sammelan, Allahabad i.e., Madhyama Vishard has been settled by the order of a Division Bench of this Court dated 28th April, 2010 in L.P.A. No. 28 Of 2010 and its analogous cases (State of Bihar vs. Mamta Kumari) reported in 2010 (4) P.L.J.R. 318. It has been held that the same was never recognized to be equivalent to the qualification of Intermediate by the State of Bihar and if on that basis alone the person had obtained their appointment, the same will have to be void ab initio. In view of the aforesaid, the said judgment having binding precedent, this Court is unable to uphold the contention of learned counsel for the petitioners and is not inclined to interfere in the matter. The decision of the Court in C.W.J.C. No. 1919 of 2013 is with regard to B. Ed. training degree and not the degree of Madhyama Vishard and thus, is of no help to the petitioners. Similarly, the facts and circumstances under which order was passed by the Court in C.W.J.C. No. 12695 of 2008 were different from the present case inasmuch as the counselling in the other case was made on the basis of Matriculation marks whereas in the present case it has been done on the basis of Intermediate marks. It is submitted that the petitioners have already represented before the respondent No. 7 as well as before the selection committee and the same is still pending for consideration. In view of the aforesaid, this Court shall only direct the District Programme Officer (Establishment), Saran at Chapra (respondent No. 7) to look into the matter and

dispose off the representations filed within a period of two months from the date of production/receipt of a copy of the order. With the aforesaid observations, the writ petition stands disposed off.