

(2005) 04 PAT CK 0060
In the Patna High Court
Case No : LPA No. 214 of 2005

Parmeshwar Mahto and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 11-04-2005

Acts Referred:

Citation : (2005) 2 PLJR 725

Hon'ble Judges : Nagendra Rai, Acting C.J.; S.N. Hussain, J

Bench : Division Bench

Advocate : Rajendra Pd. Singh and Niranjana Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

1. The appeal is barred by limitation. After taking into consideration the averments made in the limitation petition, the delay in filing this appeal is condoned.
2. This appeal is directed against the order dated 13.12.2004 passed by the learned Single Judge in CWJC No. 624 of 2004 whereby the prayer made on behalf of the appellants for a direction to the Bihar School Examination Board (hereinafter referred to as the Board) to issue them provisional certificate with regard to passing of the Primary Teachers' Training Examination for the Sessions 1986-88, 1987-89, 1988-90 has been rejected by the learned Single Judge on the sole ground that the institution was not recognised one and as a matter of fact prayer made for recognition was rejected by specific order passed by the authority being order dated 29.9.1993, which has been annexed as Annexure-C to the counter affidavit to the writ application.
3. This case has chequered career. The appellants have woke up for grant of certificate after about more than 15 years of their appearing in the said examination for the reason that they have been selected for appointment on the post of Assistant Teacher in the Primary School in the State of Jharkhand. Before their appointments they did not raise the matter either before this Court or

before their authority. Their case is that they were admitted in Mahatma Budha Primary Teachers Education College, Motipur, Muzaffarpur for the aforesaid sessions and examinations were conducted by the Board in the year 1991. The said college filed CWJC No. 5300 of 1990 before this Court for its recognition as the institution of minority community and for allowing the students to appear in the examination for the sessions 1986-88, 1987-89, 1988-90. In the said writ application, an order was passed on 11.9.1990 that if the Board is satisfied, it can allow the students to appear in the examination and thereafter they appeared in the examination but in the year 1991 as stated above.

4. One of the students, namely, Sanjay Kumar filed CWJC No. 533 of 1992 before this Court for publication of the result and this Court by order dated 30.1.1992 directed that the result of all these sessions be published for which examinations were held and having taken note of the fact that the recognition matter was pending further directed that the institution would not be permitted to admit the students or make any application for permitting them to take any further examination until the application for affiliation is disposed of and the Court also issued direction to the State Government to dispose of the affiliation matter. Thereafter, the applicants appeared in the Primary Trained Teachers' Recruitment Examination, 2002-2003 conducted by the Jharkhand Public Service Commission and the authorities are insisting for the original or provisional certificate which was not being given to them.

5. The stand of the State on the other hand is that a Division Bench of this Court in CWJC No. 5300 of 1990 allowed the appellants and others to appear at their own risk with a clear direction that no right shall enure to them merely on that basis. Their result shall not be published until the question of recognition of the said institution is finally decided by the State Government one way or the other. It was made clear that the publication of the result will abide by the final decision in the recognition matter, that is to say, their result shall be published only in case of recognition is acceded to their institution. A copy of the said judgment rendered by the Division Bench of this Court has been annexed as Annexure-A to the counter affidavit.

6. The students were allowed to appear in the examination but their result was not published as the institution was not a recognised one. The writ application being CWJC No. 533 of 1992 filed by Sanjay Kumar was disposed of with a direction for publication of the result for which examinations were held and in the meantime, the State enquired into the matter and found that the institution was on paper only. The Secretary of the institution was directed to produce the relevant papers but he did not appear and not filed any document and accordingly the proposal for the recognition of the aforesaid institution was rejected on 29.9.1993, a copy of which has been annexed as Annexure-C to the counter affidavit of the writ application. The Board in pursuance of an order passed in CWJC No. 533 of 1992 proceeded with the tabulation work but as the institution was not granted recognition nothing was done by the Board. As a

matter of fact, the result of the examinations was not prepared and no marksheet was issued and the photo copies of the marksheets which have been filed by the appellants to show that the marksheets were issued, were forged and fabricated documents.

7. The learned Single Judge after having taken note of the averments made in the counter affidavit and the materials on record rejected the claim of the appellants, as stated above.

8. Admitted fact is that the institution from which the appellants were appeared, was not recognised or affiliated one and a Division Bench of this Court directed them to appear in the examination subject to recognition matter and the recognition has been rejected as back as in the year 1993. The law on this point is well settled and no useful purpose will be served by referring to catena of decisions. It will be appropriate to refer only one recent judgment rendered by the Supreme Court in the case of L. Muthukumar and Another Vs. The State of Tamil Nadu and Others, , where it was held that public interest should be placed above the personal interest of the individual and the teachers coming out of derecognised or unrecognised institution cannot be allowed to teach the children of young age as the teachers play vital role in the national building. Ill trained teachers will be havoc to the national interest. The Apex Court further held that even if the institution was recognised at the initial stage but it was derecognised subsequently, the students are entitled to publication of their result but not entitled to diploma or certificates.

9. In the present case, on inquiry it was found that the institution was fake one. No document was produced to show that the institution was running and the appellants students have been taught in the said school. The direction given by the Division Bench of this Court was that their result will be subject to the recognition matter and as the recognition of the said institution has been rejected they are not entitled to issuance of any writ for either publication of their result or for grant of certificates. Their claim of having granted marksheets having been found to be a false claim and in such a situation, the learned Single Judge rightly held that the appellants cannot claim for equitable relief from this Court. In the result, there is no merit in this appeal and the same is dismissed.