
(2009) 02 PAT CK 0103

In the Patna High Court

Case No : C.W.J.C. No. 2686 of 2007, C.W.J.C. No's. 1147, 16224, 16272, 16933 and 2446 of 2008 and C.W.J.C. No. 477 of 2009

Prasan Kumar Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 28-02-2009

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 18

Citation : (2009) 3 PLJR 331

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Advocate : Vishwanath Pd. Sinha, R.P. Sign, Yugal Kishore, N.K. Singh, S.K. Singh, Satyavar Verma, S.K. Tiwari, S.P. Ram, A.K. Singh, S.K. Jha and Manju Jha, for the Appellant; Narmadeshwar Jha, A.A.G. VII, Ram Bilash Mahto, A.A.G. VIII, M.K. Singh, A.C. to A.A.G. VIII, Manu Shankar Mishra, G.P. X, Suresh Mishra, A.C. to G.P. X and S.N. Pathak, S.C., C.G., for the Respondent

Final Decision : Dismissed

Judgement

Mridula Mishra, J.—Heard the counsel for the parties.

2. Prayer of the petitioners in all these writ applications is for a direction to the respondents to consider their cases for appointment as Prakhand/Panchayat teachers under Prakhand/Panchayat Teachers (Appointment and Service Conditions) Rules, 2006, as trained teachers recognizing their teachers' training degree from Bhartiya Shiksha Parishad, Lucknow, Uttar Pradesh, (in short, "the Parishad"). In some of the writ applications prayer is for quashing order vide Memo No. 395, dated 30.10.2008, issued under the signature of Deputy Secretary, Human Resources Development Department, Government of Bihar, Patna, whereby teachers' training degree from the Parishad has been considered as forged and the institution not recognized by the State of Bihar for the appointment on the post of teacher. In C.W.J.C. No. 16224 of 2008, prayer of the petitioners is for quashing the notification vide Memo No. 1337, dated

25.08.2008, issued under the signature of the Principal Secretary, Human Resources Development Department, Bihar, Patna, wherein vide paragraph 10(vii) of the said notification degree of teachers' training from this very institution has been held as not recognized. The institution has also been included in the list of fake university. Similarly in C.W.J.C. No. 2686 of 2007 prayer is for quashing letter No. 47, dated 12.01.2007, issued by Mukhiya, Gram Panchayat Rajnaula, district Begusarai, cancelling appointment of the petitioner as Panchayat Teacher in Primary School, Nadiparnaul, Begusarai, and also for quashing letter vide notification No. 2342, dated 14.12.2006, issued by the Director (Research & Training) Human Resources Development Department, Government of Bihar, intimating to the concerned persons that different teachers' training courses being run by the Parishad are not recognized by National Council for Teachers' Education and no appointment should be made on the basis of such teachers' training certificate. In C.W.J.C. No. 2446 of 2008 prayer of the petitioners is for quashing the order passed by the Principal Secretary, Human Resources Development Department, Government of Bihar, vide Memo No. 4306, dated 22.11.2007, declaring that the Parishad is not a recognized institution and persons who have done their teachers' training course from this institution are not eligible for appointment on the post of trained teachers under the Bihar Panchayat and Municipal Bodies Primary Teachers Appointment and Service Rules, 2006. Similar prayer is in C.W.J.C. No. 1147 of 2008.

3. All petitioners have prayed that a direction be issued to the respondents to consider their cases for selection/appointment on the posts of Panchayat/Prakhand Teachers and appoint them as trained Prakhand/Panchayat Teachers recognizing their teachers' training degree from the Parishad in question.

4. Almost all the petitioners have approached this Court for more than one occasion. On earlier occasion C.W.J.C. No. 14813 of 2006 and analogous cases were considered on this very point. The matter was remitted back to the Director, Human Resources Development Department, Government of Bihar, for deciding the question of recognition of the institution and its degree for appointment on the post of teachers under 2006 Rules. Further, direction was that in the meantime the petitioners, who are waiting for participating in selection process, be allowed to participate, subject to the final order passed. The order was passed by the Director, Human Resources Development Department, rejecting claim of the petitioners. Challenging that order, one Shashi Kant Saroj (C.W.J.C. No. 16933 of 2008), again, approached this Court by filing C.W.J.C. No. 3562 of 2008. The impugned order was quashed. The matter was, again, remanded with a specific direction that no other persons less than Minister of the concerned Department should decide the question of recognition by passing a reasoned order. The reasoned order has been passed by the Minister of the Human Resources Development Department, which is under challenge in these writ applications. The impugned order is contained in Memo No. 395, dated 30.10.2008.

5. The question, which has been raised by the petitioners challenging the impugned orders, is that it amounts to unreasonable classification. Secondly, it is stated that the recognition matter of the Parishad is subjudice before Allahabad High Court and till the matter is not finally decided, persons, who have obtained degree from this institution can not be penalized. They should be allowed to participate in the process of selection and considering the degree be appointed as trained teachers subject to the final outcome of the pending cases relating to recognition of the institution. In some of the cases question relating to violation of rule of natural justice has also been raised specifically in cases where petitioners had already been appointed and subsequently terminated from service.

6. Counter affidavit has been filed on behalf of the respondent State as well as the National Council for Teachers' Education.

7. Considering the pleadings of the parties, it is apparent that the degree from the Parishad is not being recognized from the very beginning when the appointment of Parkhand/Panchayat teachers started under 2006 Rules. This is apparent from the fact that the petitioners have challenged the notifications vide Memo No. 2342, dated, dated 14.12.2006, notification vide Memo No. 4306, dated 22.11.2007, notification vide Memo No. 1337, dated 25.08.2008, and finally the order vide Memo No. 395, dated 30.10.2008. In spite of several rounds of litigations every time the decision of the State Government is same, i.e., not recognizing the teachers' training degree from the Parishad.

8. So far the objection raised by the petitioners regarding unreasonable classification is concerned, there is nothing to show that the petitioners have been classified on some unreasonable grounds. It is a fact that the institution from which the petitioners have taken their degree is a registered society by Uttar Pradesh Government vide Registration No. 821 of 1984-1985, dated 24.09.1984. The registration was renewed vide Renewal No. 10 of 2005, dated 05.04.2005 for further five years. It is not the case of the petitioners that at any point of time this institution has been recognized by the Uttar Pradesh Government or its degree has been recognized by the University Grant Commission or National Council for Teachers' Education. In the counter affidavit filed by National Council for Teachers' Education, it has been stated that after coming into force the National Council for Teachers' Education Act the institution, in question, made application to N.R.C., Jaipur, for recognition of distance education courses through distance learning system. The distance learning course for which recognition was sought for are N.T.T. of one year duration with 500 seats, B.T.C. (ETE) of two years' duration with 650 seats, B.Ed course of 1(1/2) years' duration with 750 seats. Application was refused by the N.R.C., Jaipur, vide order, dated 24.10.1997. An appeal was preferred by the institution u/s 18 of the National Council for Teachers' Education Act and it was also dismissed vide order, dated 05.06.1998. In the counter affidavit it has also been stated that the University Grant Commission by a press report has cautioned

students against 18 universities functioning in contravention of the University Grant Commission Act in which this institution is also included. The order of the University Grant Commission, including the institution in the list of fake institution, was challenged before the Allahabad High Court, Lucknow Bench in Writ Petition No. 3681(M/B) of 1996 and that has been disposed off on 17.12.1996.

9. Considering all these facts, I do not find that any reasonable classification has been made. Petitioners have not been able to show that degree from any institution, which is neither recognized by the State nor by the National Council for Teachers' Education, have been recognized by the State of Bihar for the purposes of appointment on the post of Parkhand/Panchayat teachers. If this could not have been the case of the petitioners that the persons who have obtained teachers' training degree from unrecognized institutions are being appointed/selected for the post, only in that case petitioners could have said that they are being deprived on the basis of unreasonable classification, that is not the case and I find that the objection which has been raised by the petitioners is not sustainable.

10. Most important question which is need consideration is regarding the degree obtained by the petitioners from the Parishad under open university system, i.e., learning under distance education system. As per the requirement of law, any institution can impart education under distance education mode only when it is approved by the Distance Education Council established under Indira Gandhi National Open University Act. The Government of India has published a notification, in this regard, that only such institution, which are approved for imparting distance learning courses by Distance Education Council, can impart such education. A notice, in this regard, was also published by the University Grant Commission and by the Indira Gandhi National Open University in order to caution the students that they should not opt for any degree under distance learning mode from any institution which is not approved by the Distance Education Council. In spite of this, still students are opting for training courses or other courses from such institutions, which are actually not approved for imparting distance learning education by the Distance Education Council established under the Indira Gandhi National Open University Act. All the petitioners have completed their teachers' training course under the distance learning course. This is one reason for which their degree can not be recognized for appointment. In the counter affidavit filed by the National Council for Teachers' Education it has also been stated that so far teachers' training course under distance learning mode is concerned, it is available for those, who are under employment. None of the petitioners were doing any job at the relevant time when they are claiming that they have obtained teachers' training degree under distance learning mode from the institution in question. This is one of the vital reasons for which the teachers' training degree of the petitioners can not be recognized for their appointment on the post of Parkhand/Panchayat teachers.

11. Another question, which has been raised by the petitioners, is that the National Council for Teachers' Education Act came in force with effect from 17th August, 1995. They have done their B.Ed course from this institution in between 1991-1995, i.e., before the National Council for Teachers' Education Act come into force, 2006 Rules, which is the Rule relating to appointment of Prakhanda/ Panchayat teachers, in very specific terms has fixed eligibility criteria. Candidates possessing bachelors teachers' training degree from a institution recognized by the State Government/National Council for Teachers' Education will only be eligible for appointment on the post. In the case of the Parishad, till the date it is not recognized by the Uttar Pradesh Government or by the State of Bihar. The degree is from such institution which is not recognized by the National Council for Teachers' Education. Institution has no approval of the Distance Education Council, established under Indira Gandhi National Open University Act for imparting teachers' training education under distance mode of learning. In the given circumstance, it will not make any difference even if petitioners have obtained their degrees prior to 1995 or post 1995.

12. Lastly, this was the submission of the petitioners' counsel that when all considerations relating to law has failed, the Court should consider the case of the petitioners on equity and compassion.

13. I do not think that equity or compassion can be a ground for recognizing the degree of the petitioners for their appointment. Teachers are appointed for improving standard of education and educate children/students at the basic and primary levels. Persons, who themselves are not qualified or who possess fake degrees, can not be allowed to be appointed on such posts. Appointing such persons as teachers will only mean that the standard of education will further deteriorate.

14. Considering all these facts, prayer made by all petitioners in these writ applications is rejected.

15. Petitioners may represent their cases for being appointed as untrained teachers, in case they possess bachelors degree from any recognized institution. It is left open to the respondents whether it is viable or not.

16. These writ applications are dismissed.