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**(2009) 07 PAT CK 0127**  
**In the Patna High Court**  
**Case No : LPA No. 163 of 2009**

Rajneesh Kishore Madhup

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision : 06-07-2009**

**Acts Referred:**

Bihar Zila Parishad Madhyamik Avam Uchchatar Madhyamik Shikchak (Employment and Service Condition) Rules, 2006 — Rule 4(a)(iii)

**Citation : (2009) 3 PLJR 913**

**Hon'ble Judges : Shiva Kirti Singh, Acting C.J.; Anjana Prakash, J**

**Bench : Division Bench**

**Advocate : Ganesh Prasad Singh and Pramkod Kumar, S.N. Pathak, for the Appellant; Santosh Kumar Singh and Sailendra Kumar Singh, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

1. Heard learned counsel for the appellant, learned counsel for the State and learned counsel for the National Council for Teachers Education (NCTE). The appellant/writ petitioner approached the writ court for a direction to the respondents to issue joining letter on the post of teacher whose selection was admittedly to be under the provision of Bihar Zila Parishad Madhyamik Avam Uchchatar Madhyamik Shikchak (Employment and Service Condition) Rules, 2006.
2. Neither the respondents nor the writ court accepted the claim of the petitioner/appellant that B.Ed. degree obtained by the petitioner under Distance Education Programme of Pondichery University pursuant to examination conducted after 17.2.1996 should be treated as a valid qualification of B.Ed. as prescribed under Rule 4(a)(iii) of the aforesaid Rules.
3. The rule in respect of requirement of B.Ed. degree as noticed above provides as one of the essential eligibility criteria that the applicant should have a B.Ed. degree from a recognized training institution prior to enforcement of National Council for Teachers Education Act, 1993, which came into force on 17th August, 1995 and for a B.Ed. degree after the enforcement of the said Act, from any

training institution recognized by the National Council for Teachers Education.

4. The appellant/writ petitioner claims that since he had taken admission in the "Pondichery University Distance Education Programme for B.Ed. course for the sessions 1995-96, at the time of admission the course was not barred by the provision of the NCTE Act, 1993 and only because the examination could not be held in time till the Act was enforced on 17.8.1995, the degree of B.Ed, obtained by the appellant should not be treated to be from an unrecognized institution.

5. The simple issue falling for determination in this case is whether the authorities or the writ court have correctly appreciated the provision in the rules laying down qualification and whether the appellant meets the prescribed training qualification or not.

6. The stand of the State in its counter affidavit is that at no point of time, that is, even before the NCTE Act, 1993 came into force, the State had ever recognized B.Ed. course of Pondichery University Distance Education Programme and, therefore, it was not a recognized training course so far the State of Bihar is concerned. Secondly, the stand of the State is that whenever be the session in which the petitioner/appellant claims to have taken admission, the degree which he wants to be accepted for employment is a B.Ed, degree which is of a date much after the NCTE Act, 1993 came into force and, therefore, for such a B.Ed. degree, the institution awarding the degree is required under the rules to have the recognition of National Council for Teachers Education, otherwise the degree could not have been accepted as a recognized and valid degree for the purposes of rules in question.

7. Learned counsel for the appellant has placed reliance upon a judgment of the Supreme Court in the case of Sunil Kumar Parimal and Another Vs. The State of Bihar and Others, and submitted that in that case for an earlier session special examination was ordered by the Supreme Court itself.

8. The fact of that case was quite different and has nothing to do with the eligibility criteria laid down under the rules with which we are presently concerned in this case.

9. In the facts of the case, we find that the writ court has committed no error of law or fact. The appeal is, therefore, dismissed.