
(2003) 04 PAT CK 0085
In the Patna High Court
Case No : L.P.A. No. 39 of 1995

Ram Swarath Mahto

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-04-2003

Acts Referred:

Citation : (2003) 2 BLJR 1150

Hon'ble Judges : Ravi S. Dhavan, C.J;R.N. Prasad, J

Bench : Division Bench

Advocate : Ganesh Prasad Singh and Bishnu Kant Dubey, for the Appellant;
Bipin Bihari Singh, Krishna Kant Singh and Shyam Kant Singh, for the Respondent

Judgement

R.N. Prasad, J.—The Letters Patent Appeal has been filed against the judgment and order dated 9-12-1994 passed in CWJC No. 5207 of 1991 whereby the writ petition has been dismissed.

2. The facts of the case are that Kisan High School, Tara Bariarapur, Begusarai was established on 2-1-1970. Respondent No. 6 was appointed Headmaster in the school by the Managing Committee. The school was inspected and the District Education Officer submitted a report dated 10-10-1971 indicating that the Respondent No. 6 was appointed Headmaster in the school with effect from 2-1-1970. He was a B.A. B.Ed. at the relevant time. The school was granted permission to establish vide letter dated 19-7-1973. A special Board consisting of the District Education Officer and one Sri Satrugan Prasad Singh was constituted vide letter dated 27-4-1978 for grant of permanent recognition. The special Board inspected the school and submitted a report dated 8-11-1978 showing Respondent No. 6 as the Headmaster of the school with effect from 2-1-1970. The school was granted permanent recognition by letter dated 20-4-1979.

3. The case of the appellant was that since Respondent No. 6 did not possess requisite qualification for the post of Headmaster an advertisement was

published for filling up the post of the Headmaster. According to him the Managing Committee vide resolution dated 15-7-1978 appointed him Headmaster of the school. He joined the school on 17-11-1978. However, special Board submitted its report showing the Respondent No. 6 as the Headmaster of the school. Subsequently second special Board was constituted consisting of Ram Parikshan Sahu and Satrugan Prasad Singh. The Board submitted its report dated 12-12-1978 showing the appellant as the Headmaster of the school. The said report was signed by only Ram Parikshan Sahu the another member of the Board, namely, Satrugan Prasad Singh did not sign the same.

4. The school was closed due to the dispute between the parties. However, due to intervention of the District Magistrate the school was reopened. The school was granted permanent recognition by letter dated 20-4-1979 in which the Respondent No. 6 was shown as a seniormost Assistant Teacher in the school. The name of the appellant was not mentioned even as the Assistant Teacher in the said school. The Board directed the Regional Deputy Director of Education, Darbhanga Division to verify the matter and report with regard to appointment of the Headmaster. The Regional Deputy Director pointed out several defects with respect to appointment of the appellant, however, recommended for approval of the appointment of the appellant on the post of Headmaster. The Board vide letter dated 31-12-1979 recognised the appellant as the Headmaster of the school with effect from the date of recognition.

5. The Respondent No. 6 filed CWJC No. 1451 of 1980 challenging the aforesaid decision of the Board which was disposed of on 22-2-1986 with liberty to Respondent No. 6 to prefer an appeal. The Respondent No. 6 accordingly preferred an appeal which was disposed of on 29-7-1991 by the Additional Commissioner-cum-Special Secretary, Respondent No. 2 holding that Respondent No. 6 was the validly appointed Headmaster of the school. The said order of the Respondent No. 2 was challenged in CWJC No. 5207 of 1991. The writ petition was dismissed vide order dated 9-12-1994 which has been impugned in the Letters Patent Appeal.

6. Learned Counsel for the appellant submitted that Respondent No. 6 had no requisite qualification and as such he could not be appointed Headmaster in the school by the Managing Committee. The Respondent No. 2 committed error of law and fact in passing the order impugned, whereas learned Counsel for Respondent No. 6 submitted that he was founder Headmaster of the school. He was validly appointed by the Managing Committee. The special Board also reported him to be the Headmaster of the school. In the letter of recognition his name was mentioned whereas the name of the appellant was not shown even as an Assistant Teacher of the school. He supported the order of the Respondent No. 2 as well as the order impugned.

7. From the submissions made by the learned Counsel for the parties and the materials available on the record it is evident that the school in question was established on 2-1-1970. The District Education Officer in his report dated

10-10-1971 showed the Respondent No. 6 as the Headmaster of the school with effect from 2-1-1970. The Board granted permission to establish the school vide letter dated 19-7-1973. A special Board was constituted vide letter dated 27-4-1978 consisting of the District Education Officer, Begusarai and Satrugan Prasad Singh. The special Board submitted its report dated 8-11-1978 showing Respondent No. 6 Headmaster of the school with effect from 2-1-1970. The qualification of Respondent No. 6 was mentioned as B.A., B.Ed. Subsequently second special Board was constituted consisting of Ram Parikshan Sahu and Satrugan Prasad Singh. It is said that the school was inspected on 11-12-1978 and a report was submitted on 12-12-1978 signed by only Ram Parikshan Sahu, The another member of the special Board, namely, Satrugan Prasad Singh did not sign the report. In the report the appellant was shown as Headmaster of the school with effect from 17-11-1978. His qualification was shown as B.Sc. and Diploma in teaching. In the letter of recognition dated 20-4-1979, the Respondent No. 6 was shown as a seniormost Assistant teacher but the name of the appellant was not mentioned even as a teacher of the school. The District Education Officer in his letter, dated 13-2-1979 showed the Respondent No. 6 as Headmaster of the school. The Regional Dy. Director in his report, dated 5-11-1979 reported that no relevant record was produced and if it is considered necessary, the Board after going through the record may grant approval to the appointment of the appellant for the post of Headmaster. The Board vide its letter, dated 31-12-1979 approved the appointment of the appellant as Headmaster of the school. The said order was challenged before Respondent No. 2 and the Respondent No. 2 recorded finding that Respondent No. 6 was founder Headmaster and was validly appointed as Headmaster of the school. The writ petition against the said order was also dismissed.

8. It is, thus, evident that Respondent No. 6 was continuously working as the Headmaster till 1978. The dispute arose thereafter. The name of the Respondent No. 6 was mentioned as the Headmaster in the relevant document including the report of the Special Board and the letter of permanent recognition. It has been claimed by the appellant that he was appointed Headmaster pursuant to the advertisement but neither date of advertisement has been mentioned nor any advertisement has been annexed. The claim of the appellant with regard to his appointment is based on the report of the subsequent Special Board which bears the signature of only one member of the Special Board. Nothing has been pointed out by learned Counsel for the appellant to show that how such report was accepted and on the basis of the said report the appellant's appointment to the post of Headmaster was approved by the Board. The claim of the appellant was that he was appointed subsequent to the, submission of the report dated 8-11-1978 by the Special Board but his name is not even mentioned in the letter of grant of permanent recognition dated 20-4-1979. There is nothing cogent on the record to show that pursuant to the advertisement the appellant was appointed Headmaster of the school in accordance with law. The learned single Judge has also considered the aforesaid aspect of the matter and has dismissed

the writ petition.

9. On consideration as discussed above, I do not find any obvious reason to interfere with the order impugned and as such it is held that this appeal has no merit.

10. It is, accordingly, dismissed but without costs.

Ravi S. Dhavan, C.J.

11. I agree.