

(2018) 01 PAT CK 0095

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 884 Of 2015

Ramchandra Ram

APPELLANT

Vs

Union Of India Through Secretary And Ors

RESPONDENT

Date of Decision : 09-01-2018

Acts Referred:

Citation : (2018) 2 PLJR 410

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Sati Ranjan Jamiayar, Abbas Haider, Avinash, Sujeet Kumar Sinha

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner; Union of India and State of Bihar.

2. The petitioner has moved the Court for the following relief:

"That the petitioner has come up before this Hon'ble court for issuance of appropriate in the nature of certiorari to quash the Memo No. 5279 dated 08.11.2014 passed by District Education Officer, Siwan and District Programme Officer, Siwan by which the service of petitioner from the post of Teacher of upgraded Middle School, Kailkhurd Barharia, District- Siwan has been terminated in the teeth of the order dated 29.08.2010 passed in CWJC No. 7686/2009 and CWJC No. 12626/2009, the order dated 06.08.2010 passed in CWJC No. 6936/2009 passed by this Hon'ble court which is wrong, illegal and without jurisdiction".

3. The moot question involved is whether B.Ed. degree conferred by the Tribhuvan University, Nepal is equivalent to B.Ed. degree recognized by the N.C.T.E./Central Government/State Government.

4. The petitioner has obtained such degree on November, 23, 1998 and on the basis of the same, he also got employment but later on the authorities finding that the degree on which such appointment had been granted was not

recognized for the purposes of such appointment, he has been removed. The same is under challenge in the present writ application.

5. Learned counsel for the petitioner submitted that the B.Ed. degree of Tribhuvan University has been held to be equivalent to Indian B.Ed. course. In support of the same he relied upon the order dated 06.08.2010 passed by a co-ordinate Bench in C.W.J.C. No. 6936 of 2009 in the case of Purushottam Pandey vs. The State of Bihar and Ors. He further relied upon another judgment dated 19.08.2010 in C.W.J.C. No. 7686 of 2009 in the case of Shashi Bhushan Kumar vs. The State of Bihar and Ors. in which also similar order has been passed relying upon the decision of the Court dated 06.08.2010 passed in C.W.J.C. No. 6936 of 2009. Learned counsel submitted that after being appointed, in terms of the order of the Hon'ble Supreme Court, any disengagement of the petitioner is barred and, thus, the authorities cannot remove the petitioner. Learned counsel submitted that the petitioner having acquired B.Ed. degree from Tribhuvan University, prior to the N.C.T.E. Act, 1993, which came into effect from 01.07.1995, cannot be discriminated on account of there being no N.C.T.E. recognition of such degree. Learned counsel further submitted that the B.R.A. Bihar University has also clarified the matter on 19.05.2007 that such degree is recognized and L.N. Mithila University too has held it to be an equivalent degree. Learned counsel submitted that such degree is even recognized by the Association of Indian Universities.

6. Learned counsel for the State submitted that the petitioner has been appointed in complete disregard of the guidelines and also the eligibility criteria. It was submitted that the State Government has clarified that such degree is not equivalent and cannot be taken into consideration for such appointment and even the Central Government in the year 2008 itself had clarified that such degree is not recognized. Learned counsel submitted that the order passed by the Court in the case of Purushottam Pandey (supra) has been considered by a Bench of this Court later in C.W.J.C. No. 19784 of 2013 by judgment dated 13.12.2013 in the case of Rabindra Kumar Singh vs. The State of Bihar and Ors., in which it has categorically been held that candidates possessing qualification of B.Ed. from Tribhuvan University will not be eligible for appointment on the post of teachers in High and Higher Secondary Schools of the State of Bihar. The said order has also been later followed in C.W.J.C. No. 7135 of 2013 and analogous cases in judgment dated 14.03.2014.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the writ application. The sole ground of the B.Ed. degree from the Tribhuvan University being recognized in India and particularly Bihar, is the so called recognition by the Association of Indian Universities. The said Association is a purely private society registered under the Societies Registration Act and has no official sanctity whatsoever. Thus, the same cannot be of any value for the purpose of considering the present controversy. As far as the question of the petitioner

having obtained the B.Ed. degree prior to coming into effect of the N.C.T.E. Act, it is for the N.C.T.E. to decide equivalence of various degrees both within the country and the State as well as outside the country. Even degrees from foreign countries have to be first recognized by the N.C.T.E. and year and period of obtaining the degree is immaterial. Moreover, in the present case, the degree has been conferred on November, 23, 1998 and the examination was of the year 1995. Thus, it is clear that the same is after coming into effect of the N.C.T.E. Act.

8. Coming to the issue raised by learned counsel for the petitioner that the Hon'ble Supreme Court has directed that appointments already made pursuant to its order, which includes the petitioner, cannot be disturbed, is noted only for the sake of rejecting the same. There cannot be any estoppel against any fraud committed on a system. In the present case, if a person not possessing the basic eligibility has been appointed, his removal cannot be said to be violation of any order for the reason that continuance would amount to fraud on the system. Thus, disengagement or removal of the petitioner is only a natural consequence as right from the beginning, he did not possess the requisite qualification and his appointment is ab initio void in the eyes of law. The same has only been formalized by the order of the authorities removing him. The Court may also take note of the fact that the order passed by the Court in C.W.J.C. No. 19784 of 2013 dated 13.12.2013, has attained finality, for the reason that the same has been brought on record in the counter affidavit filed on behalf of respondent no. 5, but there is no reply or rejoinder stating that the said order has been reversed or interfered with.

9. In view of the discussions made hereinabove, the writ petition stands dismissed.