

(2012) 05 PAT CK 0012

In the Patna High Court

Case No : CWJC No's. 13343 and 15667 of 2011

Reeta Srivastava and Others

APPELLANT

Vs

The State of Bihar and Others
 Rajendra Mahto and
Others Vs The State of Bihar Ors.

RESPONDENT

Date of Decision : 07-05-2012

Acts Referred:

Bihar Education Code, 1961 — Article 782

Citation : (2012) 3 PLJR 353

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Advocate : Tej Bahadur Singh, Brisketu Sharan Pandey in 13343, Mr. Vinay Ranjan 16003, Mr. Brisketu Sharan Pandey in 13925, 14802, 13638, Mr. Gyan Shankar in 14448, Mr. Ranjan Kumar Jha in 14488, Mr. Ajay Kumar Sharma in 14710, Mr. Mukesh Kumar Singh in 16252, Mr. Rajeev Kumar in 15667, Mr. Binod Kumar in 18942, Mr. Dhananjay Kumar No. 2 in 16368, 16727 and Mr. Ashok Kumar in 21687, for the Appellant; Ashok Kr. Choudhary (in 13343, 14448), Mr. Shashank Shekhar Jha (in 1603), Mr. Prasoon Sinha (in 13925), Mr. P.N. Sahi (in 14488, 16252), Mr. Prashant Pratap (in 14710), Mr. S.S. Shabbar Hussain (in 15667), Mr. Rajeev Kr. Singh (in 13638), Mr. Sanjay Kr . No. 2 (in 18942), Mr. Jawahar Pd. Karn (in 16368), Mr. M.D. Dwivedi (in 16727) Mr. Kumar Sachin (in 21687) and M/s. Dilip Kumar Tiwari, K.K. Tiwari (in 13343) for Interveners, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kr. Tripathi, J.—The bunch of writ applications, which have been taken up together for disposal, arise from same bundle of facts and a common question of law raised through the common thread of arguments made at the bar on behalf of the petitioners. The question for consideration by the Court is whether the petitioners who are all Assistant Teachers, are eligible for promotion to Subordinate Education Service from Lower Subordinate Education Service, on the basis of having acquired the qualification Of Sahityalankar, which is said to be equivalent to graduation, from an institution known as Hindi Vidyapith, Deoghar.

The question which this Court will have to answer is whether the so-called rigidity of the stand of the State that the degree of Sahityalankar is not equivalent to graduation for every purpose is a valid stand or do these petitioners get a right to be promoted on the basis of such a qualification to the Subordinate Education Cadre. Petitioners have been appointed as School teachers initially on matric trained scale on the basis of having matriculation as a minimum qualification for such appointment. These petitioners are treated as part of the lower subordinate education service and have worked over the years. Majority of these appointments have been made in the decade of 80's and now they claim to be eligible for promotion to the next higher cadre of Subordinate Education Service. For promotion to the Subordinate Education Service the minimum educational qualification required is graduation. People having graduation degree have been included in the seniority list, which will make them eligible for promotion to Subordinate Education Service but those having Sahityalankar's degree from Deoghar Hindi Vidyapith are being discriminated, as alleged, by the petitioners. According to them, the State has recognized the degree of Sahitya Alankar to be equivalent to graduation. The basis on which the seniority list or gradation list has been initiated and worked out is a letter issued at the level of the Director, Primary Education, Government of Bihar, contained in Annexure-1. It is only when petitioners discovered that their names are not figuring in the list that they have decided to approach the High Court for a judicial direction with regard to their right for such promotion.

2. The Bihar Education Code deals with the issue of service conditions and otherwise of teachers working under the State of Bihar. Relevant provision in this regard is Articles 358 and 359 which are reproduced hereinbelow:--

358. Recognition of certificates from National Universities.--Examinations conducted by National Universities enumerated in the following table should be treated as equivalent to the degrees granted by a recognized University mentioned opposite each in column-III and that candidates who have passed any of examinations mentioned in column-I up to the end of the year 1965 or year mentioned against their names should be tested as eligible for appointment to a post or service under Government (except to a post of teacher. In case of teachers valid for promotion only) for which success at any of the corresponding examination of a recognized University is laid down as qualification for appointment to that post or service:--

TABLE-1

Sl. No.

Name of Institution

Name of Exam

Equivalence

Remarks

(1)

(2)

(3)

(4)

(5)

1.

Gurukul Kanjri Haridwar Viswavidyalaya

(a) Adhikari

(b) Vidyavinit

(c) Vidyalanakar and Vedalankar

(d) Vidyavachaspati

Secondary/Matric S. Exam.

Intermediate B.A.

M.A.

2.

Hindi Vishwavidyalaya, Allahabad

(a) Prathama

(b) Madhyama

S.S. Exam, or Matric Intermediate

Provided that the candidate has passed equivalent English Exam.

3.

Prayag Mahila Vidyapith, Allahabad

(a) Vinodini

(b) Vidushi

S.S. Exam, or Matriculation Intermediate

From a University/or Board

-do-

4.

Gujarat Vidyapith, Ahmadabad

Veneet

S.S. Exam, or Matriculation

-do-

Knowledge of writing in Devanagri script is a must.

TABLE-2 Equivalent for Hindi only

Sl. No.

Name of Institution

Name of Exam.

Equivalence

Remarks

(1)

(2)

(3)

(4)

(5)

1.

RashtrabhashaPracharsamiti, Vardha

(a) Parichay

(b) Kovid

(c) Ratna

S.S. Exam, or Matric Intermediate B.A.

2.

AssamRashtrabhasha Samiti, Gauhati

(a) Prabodh

(b) Visharad

S.S. Exam or Matriculation Intermediate

3.

Hindi Prachar Sabha, Hyderabad

(a) Visharad

(b) Bhushan

(c) Vidwan

S.S. Exam, or Matriculation Intermediate B.A.

4.

Bombay Hindi Vidyapith, Bombay

(a) Uttama

(b) Bhasharatna

(c) Sahitya Sudhakar

S.S. Exam, or Matriculation Intermediate B.A.

5.

Maharashtra Bhashasabha, Poona

(a) Prabodh

(b) Praveen

(c) Pandit

S.S. Exam, or Matriculation Intermediate B.A.

6.

Manipur Hindi Parishad, Imphal

(a) Prabodh

(B) Visharad (c) Parangat

S.S. Exam, or Matriculation Intermediate B.A.

7.

Akhil Bhartiya Hindi Parishad, Agra

(a) Parangat

B.A.

8.

Mysore Hindi Prasar Parishad, Bangalore

(a) Pravesh

(b) Uttama

(c) Ratna

S.S. Exam, or Matriculation Intermediate B.A.

9.

Dakshin Bharat Hindi Prachar Sabha, Madras

(a) Praveshika

(b) Visharad

(c) Praveen

S.S. Exam or Matriculation Intermediate B.A.

10.

Hindi Vishwavidyalay, Allahabad

(a) Uttama

B.A.

11.

Gujarat Vidyapith, Ahmadabad

(a) Snatak

(b) Sewak

(c) Parangal

Intermediate B.A.

B.A.(Hons.)

Only for those who have passed by writing answer in Devanagri script.

(Equivalence of the above examination is valid up to calendar year 1980, Personnel Departments No. 8/R2/203/73-12860, dated 21st July, 1975)

Sl. No.

Name of Institution

Name of Exam

Equivalence

Remarks

(1)

(2)

(3)

(4)

(5)

1.

Mandar Vidyapith, Mandar

- (a) Upadhyay
- (b) Madhyama
- (c) Vidyabhushan

S.S. Exam, or Matriculation Intermediate B.A.

2.

Hindi Vidyapith.

Deoghar

- (a) Praveshika
- (b) Sahityabhushan

S.S. Exam or Matriculation Intermediate

Provided the candidate has passed English Exam from Deoghar Vidyapith or has passed equivalent English Exam from a statutory University or a recognized Board.

(Recognition extended up to 31.12.1987 vide Personnel Departments No. 184, dated 7th January, 1987 and Education Department's No. 9/M-3-0600/86E 261 dated 16th February, 1988)

359. Appointment to teacher's post forbidden on the basis of equivalence of certificates.--In order to raise the quality of teaching in school, it has been decided by the State Government that only those persons who have passed examinations held by the Bihar School Examination Board. Central Board of Education. Secondary Examination Boards of other States or Degrees obtained from statutory Universities shall be compulsory for appointment to the post of teachers in the Primary. Middle and High Schools.

(emphasis mine)

(2) For appointment to the post of Urdu, Arabic, Persian and Sanskrit teachers, for the first time, a candidate must have passed in respect of Urdu, Arabic, Persian from the Madarsa Examination Board, Bihar or from other recognized Institute by the Personnel Department, Government of Bihar, and in respect of Sanskrit from Kameshwar Singh Sanskrit University or Sampurna-nand Sanskrit Vishwavidyalaya, Varanasi (U.P.).

(Education Departments Resolution No. 394 dated 11.4.83)

(3) But if teachers of Primary, Middle and High Schools pass examination equivalent to Intermediate, Graduate, and Post-Graduate Degrees whose equivalence is recognized by the Personnel Department as mentioned in the preceding Article, may be promoted to higher pay-scale beyond matriculation. This facility shall not be given to Middle trained teachers for getting Matric

trained pay-scale on the basis of equivalence. For getting Matric trained scale of pay, a Middle trained teacher must pass the Secondary School Examination from the Bihar School Examination Board.

(Letter No. k/M 1-138/75/2680, dated 5th August, 1976 and letter No. 9/M3-286/85E 2205, dated 24th August, 1985)

3. According to petitioners, a person having a graduation degree or its equivalent, has a right of promotion and the Director had no business to prevent or exclude any person from the ambit of consideration on the degree of Sahityalankar. According to them, the State itself by various notifications has given recognition to the degree of Sahityalankar to be equivalent to graduation. Now they do not have the powers to turn around and disown their earlier notifications made from time to time. There are many a teachers working on such qualification and the same cannot now become a stumbling block for such persons.

4. Besides the State who have filed their affidavit in opposition, there is even intervention application on behalf of certain persons. According to whom, they are required to be heard as the question raised by the petitioners has a direct fall-out or bearing upon the interest of all those teachers who are graduates and not holders of unrecognized qualification like Sahityalankar from Hindi Vidyapith, Deoghar. Their intervention application i.e. I.A. No. 7301 of 2011 is allowed.

5. The stand of the State that Article 58 of the Bihar Education Code read with fable 3 only talks in terms of degree of Praveshika and Sahitya Bhushan. There is no reference to a degree known as Sahitya Alankar, In fact Article 359 of the Education Code does not talk of equivalence more so of such degrees issued by private institution, which has no recognition from any statutory body. If Sahitya Alankar is treated to be at par with graduation, then such a degree can only be issued by a university which has recognition under the University Grants Commission. Section 22 of the said Act read with Schedule-VII, Entry 66 of the List-I clearly indicates that State has no legislative competence to grant recognition to a degree as equivalent to B.A. There is no evidence produced by any of the petitioners that Deoghar Hindi Vidyapith has been recognized by the University Grants Commission not only for imparting teaching but even recognition to the degrees so conferred.

6. If the degree is not recognized then nobody has a right to beget benefit of promotion. The various notifications which the petitioners are trying to press into service to show that recognition was granted by the State and is being treated to be equivalent to B.A. are seriously contested by the State. Their stand is that the so-called Sahityalankar degree has been recognized for the purpose of promotion of Hindi, the so-called national language and only limited to the extent where an employee is required to derive benefit from possession of such degree for the purposes of Hindi and the so-called acquisition of proficiency in the said language. If an employee was looking for some advantage from the said degree,

the recognition of such kind cannot be extended to bring within its ambit benefit such as promotion to higher post or cadre, on the basis of equivalence.

7. A counter affidavit has been filed on behalf of the State in CWJC No. 16003 of 2011 annexing a Press Note issued by Government of India which unravels many of mystery if there was one or the myths which have been created around the said degree by the petitioners. Reading of Annexure-A, the said Press Note, shows that to promote, encourage and disseminate the use of national language, Hindi, in the country, many independent bodies have made contributions over a point of time, when India attained freedom or thereafter. Government of India has supported such institutions and even given recognition for holding examinations for issuance of certain degrees, which would enable such candidates to beget jobs where in appointment or recruitment, promotion of Hindi or its use was required. None of the institutions including Hindi Vidyapith, Deoghar have any status or equivalence of a university. These are self-help bodies. What is of significance which has been talked about by Government of India in the said Press Note is quoted below --

SWAIKSHIK HINDI SANSTHA SE PRAMAN-PATRA YA DEGREE PRAPT KARNE WALE BYAKTI VISHWAVIDYALAYA YA RAJYA PRIKSHA PARISHADON KE PRAMAN-PATRA YA DEGREE KI SAMKAKSHTA KA DAWA NAHI KAR SAKTE HAI.

8. The Press Note has a list of all such institutions which are engaged in promotion and dissemination of Hindi by conducting such examination with a limited object. However, due to misinterpretation or misunderstanding, certain persons have been deriving benefits by virtue of those notifications issued by the State of Bihar in the above background or spirit. By asserting that the State has recognized Sahityalankar degree as equivalent to B.A. for all purposes, is a deliberate mischief or wrong interpretation being given by vested persons. It is with the object of settling the haze, that on 27.8.2008 the Principal Secretary, Human Resources Development Department, Government of Bihar, issued a notification vide Memo No. 1346 where list of institutions and the degrees which have not been given recognition by the State, have been notified. Name of Hindi Vidyapith, Deoghar figures at Serial No. 2 and degree in question is Sahityalankar which is being touted as equivalent to B.A. by the petitioners.

9. With regard to the proposition urged by the State that Deoghar Hindi Vidyapith is not a University, not duly recognized to impart education or degree which can be termed to be a graduation degree or its equivalence. In view of the statutory provisions of University Grants Commission Act, counsel for the State has pressed into service a decision of the Apex Court which is the case of Pramod Kumar Vs. U.P. Secondary Education Services Commission and Others, . Emphasis has been placed on paragraphs No. 19, 20 and 21, which sums up such a submission in the words of Hon"ble Supreme Court:--

19. Various institutions have sprung up in different parts of India representing that their degrees are recognized. However, even no such representation appears

to have been made to the appellant by the said institution. The Directory of Institutions for Higher Education merely gives details of the institutions. No statement was made therein that it was a recognized university.

20. Maithili Vishwa Vidyapeeth, Sankat Mochan Dham was a name given to an institution. It was not a university. It is said to have been founded in the year 1962. Admittedly, it is a privately managed institution. Although it offered a large number of courses like Madhyame, Visarad, Shastri, Acharya, Vidyabhaskar, Vidyaratna, Vidyavaridhi, Vidyavachaspati, Mahamahopadhyaya, the number of teachers therein were nine only. What sort of education was imparted therein is not known. How an institution could be run with a teacher strength of nine can very well be imagined.

21. It is not in dispute that the said institution was not recognized by any university. A degree is recognized only if it is granted by a university constituted in terms of the University Grants Commission Act, 1956 or under any State or parliamentary Act. No university can be established by a private management without any statutory backing.

10. Article 782 of the Education Code lays down the initial qualification for subordinate education service and in view of the codification of law any other certificate cannot be smuggled for assertion of their claim since the said provision does not talk of equivalence. Article 782 of the Education Code runs as follows:--

782. Initial qualifications for appointment to the Subordinate Educational Service.--None but trained graduates may be appointed to the Subordinate Educational Service (emphasis mine) except in posts reserved for classical teachers or other posts requiring special qualifications of a technical nature and in purely temporary vacancies when it would be impossible to obtain a trained graduate without undue delay. This rule may be relaxed only with the previous sanction of the Director.

11. So far as reliance by the petitioners on Article 359(3) is concerned, the said provision does not talk of Basic School. It relates to Primary, Middle and High Schools. It only talks of higher scale and pay and does not talk of promotion.

12. To qualify the position as to what was the object and purpose behind the initial notification issued by the State, Court has been taken to the very first notification which was issued on 16th August, 1965 which has been annexed as Annexure-1/5/1 with I.A. No. 7301 of 2011. This circular clearly indicates that any recognition given to such degrees including Hindi Vidyapith, Deoghar is only for the purposes of Hindi examination but is not at par with graduation or equivalence. The subsequent notification which has been issued by the State is for extending the time for such recognition and have to be read in consonance with initial objective behind which 1965 notification came into existence. If there have been other notifications issued on 11.1.1991 the same cannot be permitted to be read or expanded to make out a new case beyond the ambit of initial

notification, because the 1991 notification is in continuance with 1965 circular and not independent of. Reliance in support thereof has been placed on the case of Dr. Rajinder Singh Vs. The State of Punjab and Others, . Emphasis is on para 7 of the said decision.

13. It is contended on behalf of (sic) interveners that the State Government can never issue a circular which has the effect of amending of statutory provisions, which in this regard is Article 782 of Bihar Education Code, which clearly lays down that the basic qualification for promotion to Subordinate Educational Service is a graduation and not any equivalence. It is also their case that what cannot be done directly cannot be done indirectly because if the State wanted to extend the benefit of granting recognition to such degree of Sahitya Alankar to be equivalent to B.A. or any similar equivalence, the Statute itself would have been changed and a Government circular which is sought to be wrongly read by the petitioners as ample evidence of granting recognition to Sahitya Alankar has to be negated in view of the above contention. Reliance in support of such proposition has been placed on a decision on the case of Siddhu Matriculation Hr. Secondary School Vs. K. Shyam Sunder and Others, .

14. Another submission which has been made at the bar is that terms and conditions of service which are fixed by the codified law or rule cannot be altered by such circular of administrative kind to beget certain benefits to the petitioners by seeking equivalence to the degree they have. The judgment of the Apex Court in the case of State of Jammu & Kashmir Vs. Shiv Ram Sharma and Others, supports such a contention. The Apex Court has criticized above opinion in para 6 of the said decision.

15. It is not that the question of recognition or equivalence of such degree has come up before this Court for the first time. There has been an occasion for a Division Bench to consider the ambit of qualification or degree awarded by a voluntary organization like the Hindi Vidyapith, Deoghar and its so-called equivalent degree to Bachelor. The case in question is Ganesh Prasad Srivastava Vs. Punjab National Bank and Others, . This Division Bench decision has also been brought to the notice of this Court by the respondents. The Court had an occasion to go into the details of the issue whether the qualification of Sahityalankar with English from Hindi Vidyapith, Deoghar is equivalent to Bachelor Degree/Diploma or Certificate. Though the issue in the said writ application was of promotion in bank but the Division Bench had many a things to say with regard to such degrees being offered by the said voluntary organization. Its utility or impact cannot be overlooked.

16. To crystallize as well as focus on the issue as to what the Division Bench had to say, this Court reproduces paragraphs 7, 8, 14 and 15 of the said decision:--

In 1991, the Indian Banks' Association advised all the Banks including the Canara Bank that the Sahityalankar examination alongwith English from Hindi Vidyapith, Deoghar, was recognized as equivalent to Bachelor degree, which was

in the light of the recommendation of the Bihar Government. Thereafter, the Canara Bank on 6.12.1991 issued an instruction that passing of the Sahityalankar Examination alongwith an English examination from Hindi Vidyapeeth or from any other Indian University or Board of the same standard, can be treated as equivalent to graduation for all the purposes. The same view was again reiterated on 29.2.1996. Copies of the said decision have been annexed as Annexures-1 and 2 to the C.W.J.C. No. 4538/2003. Later on the Union Bank's Association informed the Bank that the Ministry of Human Resources Development, Government of India, had clarified that the recognition given to the examination conducted by Voluntary Hindi Organisations is only with regard to the standard of Hindi prescribed in the equivalent Hindi Examination and it is not to be treated as full-fledged degree/diploma or certificate awarded by University or Education Board (emphasis mine) and, thereafter, the respondent-Canara Bank issued a circular to ail its branches dated 31.12.2001 clarifying that the recognition given to the examinations conducted by Voluntary Hindi Organisation is only with regard to the standard of Hindi prescribed in the equivalent Hindi Examination and it is not to be treated as full-fledged degree/diploma or certificate awarded by University or Education Boards as the case may be. Alongwith the said letter, a list of Hindi Examinations conducted by the Government recognized institutions has also been given. A copy of the said letter has been annexed as Annexure-5 to C.W.J.C. No. 4538/2003. Item No. 4 of the said letter shows that the Sahityalankar certificate of Hindi Vidyapeeth, Deoghar, has been treated as equivalent to Hindi Examination in B.A.

17. The Central Hindi Directorate, Government of India, has issued a Press Note as back as on 5.5.1998 with regard to the value or equivalence to be attached to the examination conducted by the Voluntary Organizations for the purposes of promotion and propagation of Hindi. It has been clarified that the examination of Sahityalankar and other examinations conducted by the Voluntary Organizations are not conducted either by any Board or any University and as such they have not been treated as equivalent to examination conducted by the University or Board and so far as the value of the aforesaid examination to be given in the Government service is concerned, if any Government Undertaking or Semi Government Undertaking require special qualification in Hindi then the qualification acquired by a candidate in the examination conducted by the Voluntary Organizations will be taken into consideration, but in no case the same should be equated or treated to be equivalent to the degree awarded by the University, or statutory body of the State Government. It was clarified in clear te(sic)is that the recognition given to the examination conducted by the Voluntary Organization will be only with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it should not be treated as equivalent to the degree awarded by the University or Education Board for any other purpose. A copy of the said Press Note was also attached alongwith the letter dated 17.9.2001.

14. The sole question for consideration is as to whether the Sahityalankar

qualification awarded by the Hindi Vidyapeeth, Deoghar, which is a Voluntary Organisation, is equivalent to a Bachelor Degree or not. Hindi Vidyapeeth, Deoghar, has been established, for propagating and promoting Hindi. From the "Press Note" issued by the Central Hindi Directorate, Ministry of Human Resources Development, Government of India (Annexure "A" to the counter-affidavit of C.W.J.C. No. 4538/2003), it is clear that the Government of India has recognized the Hindi Organizations, including the Organisation in question, for the sole purpose of propagation and promotion of Hindi. It provides that in case of employment in Government or the Semi-Government service, if Hindi is required to be a special certificate from such organizations may be eligible for the said employment but in case any other qualification other than the Hindi is required then the certificate granted by the Voluntary Organisations cannot be treated to be equivalent to a certificate, degree or diploma conferred by the different Universities and the same will not be recognized as qualification of High School. Intermediate or B.A. When the Indian Bank Association sought clarification from the Central Hindi Directorate. Ministry of Human Resources Development then it clarified the same by letter dated 17.9.2001 that the recognition is only with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as a full-fledged degree, diploma or certificate awarded by the University or Educational Boards, as the case may be (emphasis mine). As back as in the year 1987, the Ministry of Human Resources Development, New Delhi, on 28.6.1987 and the Akhil Bhartiya Hindi Sansthan Sangh, New Delhi, on 29.6.1987 clarified the said position as evident from Annexures-A & B to the counter-affidavit filed in C.W.J.C. No. 797/2002.

15. Thus, it is clear that the qualification of Sahityalankar obtained from Voluntary Organisations, including Hindi Vidyapeeth, Deoghar, is with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as Bachelor degree awarded by a University or Educational Board etc. of the State. Therefore, in a case where minimum qualification is prescribed as Bachelor degree, a person cannot claim promotion or other benefits by virtue of acquiring a qualification of Sahityalankar from Voluntary Organisations like Hindi Vidyapeeth. Deoghar. Though, it is well settled-- that where process of selection/promotion etc. had started, then the rule or Policy, which was in force at the time when the process had started, will apply, but the said principle had no application in the present cases. In the present cases, the Banks under wrong impression were treating the qualification of Sahityalankar as equivalent to degree. When the matter was clarified by the Central Government and they were reminded of the earlier Press Note of the Central Government, they have rectified that mistake. Subsequent circular or instruction issued by the respondent-Banks not treating the said Sahityalankar qualification as equivalent to Bachelor degree is only a clarification and not the change of Policy or Rule of the Bank. No vested right of the petitioners of the last four writ petitions, who are employees of the Canara Bank, has been taken away by the aforesaid decision of the Bank, which

has rectified the earlier mistake committed by it. So far as the case of the petitioner of C.W.J.C. No. 797/2002, who is an employee of the Punjab National Bank, is concerned, already a decision was taken long back not to treat the aforesaid qualification as equivalent to degree. This apart, the decision taken by the Punjab National Bank not to treat Hindi Sahityalankar with English from Hindi Vidyapeeth, Deoghar, as equivalent to degree has been upheld by this Court as back as in the year 1988 in C.W.J.C. No. 119 of 1988.

18. In reply to the above contentions counsel for the petitioners submit that it is not open for the Government to challenge its own decision after Sahityalankar has been treated at par with the graduation degree specially when it has been obtained with English as one of the subjects.

19. Such contentions of the petitioners will have to be tested in light of the notifications of 1965 or 1991 read with the interpretation given by the Division Bench in the case of Ganesh Prasad Srivastava (*supra*).

20. There is overbearing evidence that voluntary organization like Hindi Vidyapith, Deoghar has a role in promotion of the national language i.e. Hindi and the degrees or diploma which are offered by them had a limited objective behind it. Therefore, such degrees cannot be raised to the level of graduation as if the said voluntary organization is a university having all its attribute even though there is no recognition by any statutory body such as U.G.C. etc.

21. this Court has only to remind the petitioners about what the Hon''ble Apex Court had to say in the case of Pramod Kumar vs. U.P. Secondary Education Services Commission (*supra*) in paras 19, 20 and 21. If this is the ambit and scope of framework within which any institutions can impart and grant degrees then Sahityalankar has no legal recognition and equivalence which the petitioners were looking for.

22. One of the counsel for the petitioners drew the attention of this Court to a decision which has been rendered by this Bench in an earlier case which was CWJC No. 14029 of 2010 (Raj Kumar Singh and Others) decided on 20.4.2011, where the Court had occasion to deal with similar matter, in the sense that a degree awarded by Hindi Vidyapith, Deoghar was held to be good enough. How the said case overrides yet another D.B. or Apex Court is not fully explained.

23. In this regard the Court had only to say that such a judgment or order is per incuriam in view of various decisions which have been taken note of by this Court in the earlier part of the order and especially the Division Bench decision rendered in the case of Ganesh Prasad Srivastava (*supra*).

24. As a last ditch effort reliance has been placed by the petitioners in the case of Sanjay Kumar and Another vs. State of Bihar and Others, reported in 2009(4) PLJR 1039, where a Division Bench dealing with the matter of appointment of Librarian had given relief to the petitioners, based on the same degrees and its equivalent. In this regard the said decision is distinguishable in the present facts

as well as the catena of decisions which have been relied upon by this Bench in the earlier part of the order based on the evidence and submissions made in this regard.

25. Before parting this Court cannot stop itself from observing that when an effort was made to obtain information on the World Wide Web i.e. Internet with regard to the institution known as Hindi Vidyapith, Deoghar, with due respect nothing was found on the net. In the 21st century, an institution which is issuing degrees to a large number of students and who are claiming benefit from such degrees has no portal or domain name where people can derive information about the institution freely. The only material which this Court could find on the Internet was a blog site where scanned copies of the degrees which are issued by the said institution have been displayed prominently without any information, background about the institution, the facilities, the infrastructure or the people who are at the helms of affairs which could lend credibility to the said institution. Obviously, over a period of time such institution namely, Hindi Vidyapith, Deoghar has been fishing in muddied water.

26. To sum up therefore, this Court categorically holds that a Sahityalankar degree is not equivalent to graduation and no holder of a degree of Sahityalankar, therefore, can claim the benefit of promotion to the Subordinate Education Service as a matter of right. The recognition if at all given by the State is with a limited object which has been talked about earlier, that is for the purpose of qualifying any Hindi examination and drawing advantage thereof in service and not to beget appointment based on the eligibility laid down for such recruitment or promotion by treating such degree to have equivalence.

27. A Sahityalankar degree therefore is not equivalent to graduation degree in light of what has been held by this Court in this decision and therefore none of the petitioners have been illegally and arbitrarily discriminated by refusal of the State to bring them within the zone of consideration for promotion to the Subordinate Education Service. All these writ applications are dismissed being devoid of merit.