

(2016) 08 PAT CK 0030

In the Patna High Court

Case No : Miscellaneous Jurisdiction Case No.1931 of 2016

Rohtas District Non - Formal Education Instructor Association

APPELLANT

Vs

Sheo Bhajan Prasad Diwakar

RESPONDENT

Date of Decision : 10-08-2016

Acts Referred:

Citation : (2017) 1 PLJR 254

Hon'ble Judges : Mr. Navaniti Prasad Singh And Smt. Nilu Agrawal, JJ.

Bench : Division Bench

Advocate : Mr. Binod Kumar Kanth, Sr. Advocate Mr. Rakesh Narayan Singh, Advocate Mr. Pramod Mishra, Advocate, for the Petitioner in MJC No.1931 of 2016; Mr. Mritunjay Kumar, AC to AAG-6, for the Respondent in C. REV. No.344 of 2016; Mr. Mritunjay Kumar, AC to AAG-6

Final Decision : Disposed Off

Judgement

Mr. Navaniti Prasad Singh, J. - Both these applications seeking review arise from the judgment and order of this Court dated 11.08.2015, passed in L.P.A. No. 1489 of 2011.

2. It may be noted that this order has not been interfered with by the Apex Court which has only clarified that the benefit of the order would be available only to people who were party to the proceedings or were intervenors or connected therewith.

3. According to the State as well as the petitioners the confusion arises from what has been noted by us in paragraph 10 of the judgment, which is quoted hereunder :

"10. We would only like to add that the State policy in respect of Supervisors be adopted mutatis mutandis with only addition that it would apply to the Instructors, who were found working for three years continuously, at the time when the non-formal education scheme was abolished, in which they were."

4. Sri Binod Kanth, learned Senior Counsel submits that confusion is with regard to expression three years continuously, at the time when the non-formal education scheme was abolished, in which they were. According to him the non-formal scheme in which the petitioners and their like were working were in fact stopped starting with 1995 ending with 1998, different dates for different areas. There was a new scheme for a different scheme which continued thereafter known as "Special Education Scheme", which in fact, came to an end in 2001. The petitioners and their like, therefore, stopped working as Instructors in the non-formal education scheme in between the period 1995 to 1998 and none of them continued up to 2001, much less as non-formal education Instructors.

5. The State relying upon the observation, as made by the learned Single Judge from which the appeal arose, points out that the learned Single Judge had observed thus :

"-----This Programme continued under the control of the Department of Adult and Non-Formal Education of State Government from 1984 to 1995. It is stated that, in fact, the Programme continued up to 2001 when it was finally closed."

6. State on basis of what the learned Single Judge has stated takes a stand that the scheme continued up to 2001 and therefore the three years working period as noted by the Division Bench would be 2001 less three years i.e. 1998 to 2001 and Instructors who had worked for this period would be absorbed. According to Sri Binod Kanth, learned Senior Counsel, if this is done then none of the petitioners would get absorbed because all of them had worked up to 1998 as the scheme was being closed one by one from 1995 and they would thus be deprived of the fruits of the litigation initiated by them.

7. Having considered the matter, in our opinion, the order of the learned Single Judge clearly indicates that the original scheme did come to an end in 1995. The object would be extended under different schemes or could have been extended under different schemes to 2001 but the fact remains that what was intended by the Division Bench was that those Instructors who had continuously worked for three years are to be rehabilitated mutatis mutandi to that of Supervisors. We are surprised why the State notwithstanding being a welfare State is raising hyper-technical objections. All we can say is when there is a conflict between the duties of a welfare state and technicalities, when it comes to the rights of citizen, technicalities have to take a back seat. It is only in that manner that substantial justice can be done. The whole litigation was for rehabilitation of the non-formal Instructors, in a manner similar to that of the Supervisors. If this is kept in mind there would be no confusion as to who are required to be rehabilitated. We hope and trust that with this clarification State would harbour no further confusion and would do what is just and fair and do not drive the citizens to another round of litigation.

8. With these observations the modification applications stand disposed of.