

(2005) 01 PAT CK 0056

In the Patna High Court

Case No : Civil Writ Jurisdiction Case Nos. 5045 and 7338 of 2004

Sanjay Kumar Mahto and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 12-01-2005

Acts Referred:

Citation : (2005) 01 PAT CK 0056

Final Decision : Allowed

Judgement

Chandramauli Kumar Prasad, J.—In both the writ applications, common questions of law and fact arise and as such, they are being disposed of by this common order.

2. In both the writ applications, prayer of the petitioners is to quash the orders whereby the Matric Trained Scale granted to them has been rescinded and excess remuneration paid thereof, has been directed to be recovered.

3. Facts lie in a narrow compass. Petitioners were granted Matric Trained Scale on the basis of B. Ed. degree obtained from Millia Fakhruddin Ali Ahamad Teachers Training (B. Ed.) College, Rambagh, Purnea, hereinafter referred to as the College, it is not in dispute that the petitioners passed the B. Ed. examination from the said College when it was duly recognised but its recognition has been withdrawn with retrospective effect. As the recognition of the College from where the petitioners had passed the B.Ed. examination, has been withdrawn with retrospective effect by the impugned order, the order granting Matric Trained Scale has been rescinded and excess payment made to the petitioners on account thereof has been directed to be recovered.

4. Dr. Uma Shankar Prasad and Mr. Y.V. Giri, Senior Advocates, appearing on behalf of the petitioners in both the cases contend that the petitioners passed the examination from the College in question when it was duly recognised and hence, benefits flowing from that, cannot be withdrawn only on the ground that the recognition of the College has been withdrawn with retrospective effect. In

support of the submission reliance has been placed on an unreported decision of this Court dated 22.9,2004 passed in CWJC No. 7217 of 2003 Janki Sarkar v. State and Ors. and my attention has been drawn to the following passage from the said judgment which reads as follows :

"This Court finds merit in the submissions advanced on behalf of the petitioner that a certificate of training granted by an institute or college when it had proper recognition or affiliation cannot lose its validity only because in future the college or institute is refused recognition by a statutory body coming into existence from a later date and having jurisdiction over a period of time much after issuance of certificate in question.

5. Reliance has also been placed on a decision of the Supreme Court in the case of Suresh Pal and Others Vs. State of Haryana and Others, , and my attention has been drawn to the following passage from para 3 of the judgment which reads as follows :

"3. We are of the view that since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though at the time of their joining the course it was recognised, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was derecognized by the State Government on January 9, 1985.

6. Junior counsel to Standing Counsel No. III, however, appearing on behalf of the State, submits that as the recognition of the College from where the petitioners have obtained the degree has been derecognized, the impugned order cannot be faulted.

7. Having appreciated the rival submission, I find substance in the submission of the learned counsel for the petitioners and the decisions relied on support their contention. It is not in dispute that at the time when the petitioners passed the B. Ed. examination from the College, it was duly recognized. In my opinion, its recognition with retrospective effect, shall not divest the petitioner's right which had accrued to them on account of passing the B.Ed examination from the said College. As the grant of Matric Trained Scale was rescinded only on the ground that the College in question has been derecognized with retrospective effect, the impugned order cannot be allowed to stand.

8. In the result, these applications are allowed. The impugned orders rescinding the grant of Matric Trained Scale and consequential directions for recovery of the excess amounts already paid to the petitioners, are quashed. In the facts and circumstances of the case, there shall be no order as to cost.