

(2014) 06 PAT CK 0048

In the Patna High Court

Case No : CWJC Nos. 22205 and 22557 of 2012

Shankar Roy and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-06-2014

Acts Referred:

Citation : (2015) 1 PLJR 786

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Praveen Kumar, Advocates for the Appellant; Sunil Kr. Mandal and Bipin Kr, Advocates for the Respondent

Judgement

Chakradhari Sharan Singh, J.—I have heard learned counsel for the parties in both the cases. Since the orders, which are under challenge in both these writ applications, are almost identical in nature, passed in similar circumstance, both the writ applications have been heard together and are being disposed of by the present common order, with the consent of the parties. There is no dispute about the fact that the petitioners were appointed as Primary Teachers under Bihar Special Primary Teacher Appointment Rules, 2010. These appointments were made pursuant to some order of the Supreme Court passed in SLP No. 22882/2004. The petitioners after their appointment on 6.2.2012 continued to work as such till issuance of the impugned orders dated 25.10.2012 (Annexure-8 in CWJC No. 22205 of 2012) and 29.10.2012 (Annexure-10 in CWJC No. 22557 of 2012). By the impugned orders, their appointments have been cancelled on the ground that the certificates of teachers' training issued by the Rashtriya Patrachar Sansthan, Kanpur in their favour were not duly recognized and they could not have been appointed as Primary Teachers on the strength of such certificates. The appointments of the petitioners have, accordingly, been cancelled from the date of their initial appointment as Primary Teachers.

2. A counter affidavit has been filed on behalf of the respondents-State of Bihar stating that upon verification the Education Department, Government of Bihar

learnt that Rashtriya Patrachar Sansthan, Kanpur was not an institution duly recognized to impart teacher's training and, accordingly, vide Memo No. 437 dated 26.6.2012 the department issued circular to the District Education Officers, District Programme Officers and other concerned officers that the certificate of training issued by the said Sansthan was not a valid certificate for appointment on the post of Primary Teacher.

3. The short submission, which has been made on behalf of the petitioners, is that before issuance of the impugned orders dated 25.10.2012 and 29.10.2012 no show cause notice was given to the petitioners and they were, thus, not given any opportunity of hearing. It has, accordingly, been contended that the orders have been passed in violation of principles of natural justice.

4. The fact that no notice was given to the petitioners before issuance of the impugned orders is not in dispute. In my opinion, before taking any action, adverse to the interest of the petitioners, the respondents were obliged to give them an opportunity of show cause and adequate hearing at least by way of representation. This having not been complied with, the impugned orders cannot be sustained being in violation of principles of natural justice. The impugned orders issued vide Memo No. 2309 dated 25.10.2012 and Memo No. 2310 dated 29.10.2012 issued by the District Programme Officer (Estb.), Education Department, Lakhisarai are quashed.

5. The matter is remanded back to the District Programme Officer (Estb.), Education Department, Lakhisarai to pass an order afresh after giving the petitioners adequate representation. Such order must be passed within a period of three months from date of receipt/production of a copy of this order. The petitioners' reinstatement and payment of back wages shall be subject to and will be dependent upon the order of the District Programme Officer, Lakhisarai. It will, however, be open to the petitioners to challenge the order of the District Programme Officer passed in compliance of the present order, in accordance with law before appropriate forum.

6. Learned counsel appearing on behalf of the petitioners submits that the District Programme Officer (Estb.), Education Department, Lakhisarai has passed the orders on the strength of circular issued by the Education Department dated 26.6.2012 wherein the Department has taken a decision that certificate issued by the institution in question shall be treated to be not recognized for the purpose of appointment of teachers. It will be open to the petitioners to satisfy the District Programme Officer (Estb.), Education Department, Lakhisarai that the said certificate is duly recognized for the purpose of appointment and the District Programme Officer (Estb.) will not be prejudiced by the said letter issued by the Education Department, Government of Bihar. If the decision of District Programme Officer (Estb.) goes against the petitioners, he will be required to give reasons and shall pass reasoned and speaking order. These applications are accordingly allowed with the observations and directions as aforesaid.