

(2008) 06 PAT CK 0006
In the Patna High Court
Case No : CWJC No. 3562 of 2008

Shashi Kant Saroj and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-06-2008

Acts Referred:

Citation : (2008) 3 PLJR 645

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned counsel for the petitioners and learned counsel for the State. The petitioners hold B.Ed, qualification from the Bharatiya Siksha Parishad at Lucknow prior in time to the coming into force of N.C.T.E. Act on 17.8.1995. They applied in response to an advertisement for appointment on the post of Nagar Sikshak at Dumraon under the Bihar District Board Secondary and Higher Secondary Teachers (Appointment and Service Conditions) Rules, 2006. Non-consideration of their cases because of the Institution being allegedly not recognized compelled them to approach this Court in CWJC No. 14813/06 which was disposed on 31.5.2007 alongwith analogous cases. The Court declined to issue any positive orders, but on consideration of entirety of the materials placed before it with regard to the Institution in question, directed the respondent-State to take a conscientious decision at the State Government Level with regard to the Bharatiya Siksha Parishad at Lucknow after taking into consideration all the materials discussed in the judgment. As an interim measure, the case of the petitioners was required to be considered. Letters of appointment were issued to them on 8.11.2007. The order impugned dated 22.11.2007 then came to be passed by the respondents. The petitioners were terminated with effect from 3.12.2007.

2. It is necessary to take note of the fact that the order of the Court dated 31.5.2007 in the case of Someshwar Rai vs. State of Bihar, reported in 2007 (3)

P.L.J.R. 301 has not been challenged by the respondents. In fact, they have complied the order. The order of this Court has, therefore, attained finality.

3. On bare perusal of the impugned order dated 22.11.2007, at Annexure-19, it is apparent that it has been passed by respondent No. 3 and not by the State Government. On this ground, the order stands vitiated per se.

4. Additionally, the order is also not in compliance with the directions of the Court. It does not take into consideration the discussion and then arrive at a conclusion upon consideration of the entirety of the materials noticed in the order of the Court with regard to the Bharatiya Siksha Parishad at Lucknow. This also makes the order invalid in law. In any event, the impugned order is not sustainable. It is accordingly set aside.

5. Since the respondents have accepted the order of the Court dated 31.5.2007, it is now proper to direct that a fresh decision be taken by the State Government in the matter in light of the materials and observations noticed in the order of the Court dated 31.5.2007.

6. Learned counsel for the petitioners has also brought to the attention of the Court certain further materials including orders of the High Court of Judicature at Allahabad with regard to the Institution in question and the status of those who acquired their qualification therein, like the petitioners.

7. Liberty is, therefore, given to the petitioners to file additional representation before the Minister of the Department of the State Government when a fresh decision shall be taken by the State Government and not by any of the respondents in their individual capacity, in the matter, within a period of two months from the date of receipt/production of a copy of this order before the appropriate authority.

8. If the petitioners request for personal hearing, it shall be given to them, but in view of the fact that there are several such writ applications before this Court, the Minister shall be required to give such hearing to a representative batch of approximately 10 persons only though separate representations may be filed. However, it shall be desirable that a composite representation is filed.

9. Any action taken by the respondents in the interregnum till such fresh decision, whether by way of termination or by continuance of the appointees shall ultimately abide by such final decision that may be taken by the State Government. The writ application stands allowed with observations and directions as contained hereinabove.