
(2007) 05 PAT CK 0007
In the Patna High Court
Case No : CWJC No. 14813 of 2007

Someshwar Rai and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 31-05-2007

Acts Referred:

Citation : (2007) 3 PLJR 300

Hon'ble Judges : S.K. Sinha, J

Bench : Single Bench

Advocate : Rajendra Pd. Singh, Rajendra Narain, Uday Kumar, Mrityunjay Kr. Tiwary, Arun Kumar, S.S. Thakur, Md. Hussamuddin Azad, Satyendra Prasad and Umesh Kumar Mishra, for the Appellant; Lalit Kishore, Mahesh Prasad, Arvind Ujjwal, Mithilesh Kumar Singh, Satyadeo Kumar, Kumar Uday Bhanu Rai, S.N. Pathak, Ravindra Kumar Choubey, Md. Fazal Rahman, Arbind Kumar No. 2 and R.C.P. Bharti, for the Respondent

Judgement

S.K. Sinha, J.—As above group of writ applications involves the issue common in nature, as such, with consent of the parties, they all have been heard together and are being finally disposed of by this common order. The writ petitioners are aggrieved on account of non-consideration of their cases for appointment as Panchayat Teachers" in different schools under the respondent No. 8 under the provisions of the Bihar Panchayat Primary Teachers (Employment & Service Conditions) Rules, 2006 (hereinafter referred to as the "Statutory Rule")

2. Pursuant to an advertisement issued inviting applications for appointment on the post of Teachers", the writ petitioners applied for their appointment claiming to have fulfilled the necessary qualifications for such appointment as advertised.

3. It is the common plea of the writ petitioners that their cases for appointment on the post of Teachers" are not being considered solely on the ground that they have obtained the Teachers" Training Certificate from the Bhartiya Siksha Parishad, Lucknow, U.P., a society registered under the Societies Registration Act, (21 of 1860). According to the respondents, the certificates granted by the

aforesaid institute is not recognised for the purpose of appointment as Panchayat Teachers" under the aforesaid Statutory Rule.

4. It has been submitted on behalf of the petitioners that the only essential qualification with regard to the Teachers" Training Certificate is that the candidate should have the Certificate of Teachers" Training from a "recognised institution". The candidates having obtained the similar Teachers Training Certificate from the institute in question have filed interlocutory applications for intervening in this writ application, and have supported the stand of the writ petitioners.

5. The petitioners, in support of their cases have drawn the attention of this Court to the following documents, which have been annexed with the writ application(s)/supplementary affidavit(s)/ interlocutory application(s)/counter affidavit(s)/supplementary counter affidavit(s):

(A) Appellate order Dated 5.6.1998, Annexure - 3

By the aforesaid order dated 5.6.1998 passed by the National Council of Teachers" Education (N.C.T.E.) the appeal of the Bhartiya Siksha Parishad, Lucknow, U.P. against the rejection of the application seeking recognition with N.C.T.E. was dismissed.

The said appeal was dismissed on the following counts :

- (i) For want of no objection certificate from the State Government;
- (ii) For want of approved agency for taking the Teachers" Training Examination;
- (iii) The institute can not run distant education course for fresh students as the guidelines of NCTE is limited only to the serving regular teachers;
- (iv) The declaration of the institution as a fake institute by the University Grant Commission (U.G.C.) has not yet been rescinded.

(B) Letter issued by the U.G.C., Annexure -11

The letter dated 24th October, 2005, issued by the U.G.C. New Delhi, deleting the name of Bhartiya Siksha Parishad, Lucknow, U.P. From the list of "fake" universities issued by the U.G.C. earlier.

(C) Order passed by the Hon"ble High Court at Allahabad, Annexure-6 & 7(Series)

The different orders passed by the Hon"ble High Court at Allahabad to the effect that Bachelors of Training Certificate issued by the Bhartiya Siksha Parishad, Lucknow, U.P., is equivalent to the regular B.T. Course run by the State Government specially the orders dated 24.10.1997 (Page-73), 06.05.1999 (Page-67), 4.5.1999 (Page-68) & 18.8.1998 (Page-100), passed in Civil Miscellaneous Writ Petitions Nos. 34308 of 1997, 18832 of 1999, 20015 of 1999 & 32996 of 1997 respectively.

(D) Order dated 16.1.2003/CWJC No. 14240/2002 Annexure-8

The writ petitioner of the above case obtained the Teachers' Training Certificate from the institute in question and this Court directed for appointment of the writ petitioner after verifying the genuineness of the Training Certificate. Accordingly, appointment was made vide office order dated 22.10.1999 as contained in Annexure-9.

(E) Communique of the H.R.D. Department, Government of Bihar, Patna Annexures-16 & 16/A

The communique issued with respect to the appointment of Teachers' pursuant to the Teachers' Appointment, 2006 to the effect that pursuant to letter No. 1434 dated 13.9.2006 (Annexure-24) to the petitioners' rejoinder to the counter affidavit directing the authorities to proceed with regard to appointment of Teachers' on the basis of the list of the recognised institutions including the orders of the Hon'ble High Court in connection with the recognition of the training institute. In the said letter there is mention of issuance of the list of the recognised institutions, however there is no such list produced by the State, the said communique further mentions that the process of appointment should continue, however provisional appointment should be given in case of doubt.

(F) List of recognised institutions, Annexure-17.

The above list of the recognised institutions including the institute in question issued by the office of the District Superintendent of Education, Madhepura, Bihar, although the said list was later on withdrawn as per the letter No. 472 dated 28.3.2007, as contained in Annexure-A to the counter affidavit filed on behalf of the respondents 1, 2 & 3.

(G) Letter No. 391/C dated 18.9.2006 Annexure-23

The aforesaid letter, issued by the Commissioner-cum-Secretary, Human Resources Development Department, Government of Bihar, Patna, is to the effect that the list of the recognised institute imparting teachers' training under the N.C.T.E., list obtained from the other States, the list available in this State, as also the orders of the Hon'ble High Court in connection with the institutes granting teachers' training certificate should be taken into consideration for appointment.

(H) Annexure-Y to I.A. No. 1024 of 2007

The letter dated 13.1.2003 issued by the Bharathi Dasam University, Tiruchirapalli (Tamil Nadu) is to the effect that B. Ed. degree awarded by Bhartiya Siksha Parishad, Lucknow U.P. is equivalent to B.Ed. degree awarded by the said University.

(I) Letter dated 1.12.2006 of D.S.E. Buxar, Annexure-25

The above letter seeking instruction from the Director, Primary Education,

Government of Bihar, Patna in light of the Human Resources Development Department's Letter No. 1434 dated 13.9.2006 and letter No. 391 dated 18.9.2006 as well as the orders of the Hon'ble High Court at Allahabad & Patna with respect to the Teachers' Training Certificate granted by the Bhartiya Siksha Parishad, Lucknow, U.P.

(J) Memo No. 60 dated 9.1.2007, Annexure-26

The said memo issued by the Human Resources Development Department, Government of Bihar, Patna reiterating the earlier instruction of the Government in its letter dated 18.9.2006, as contained in Annexure-23.

(K) Petitioners' rejoinder dated 5.4.2007 Annexure-27

In order to show that the syllabus of the Teachers' Training in respect of Bhartiya Siksha Parishad is similar to the syllabus prescribed by Magadh University Bodh Gaya, Bihar.

(L) Appointment letters of the Teachers appointed in the State of Uttar Pradesh Annexure-21 (Series)

The appointment letters of the Teachers appointed in the State of U.P., having obtained the Teachers' Training Certificate from the said Bhartiya Siksha Parishad Lucknow, U.P.

(M) Appointment letters of the Teachers appointed in the State of Bihar Annexure-23 (Series)

Appointment letters of the Teachers appointed in the State of Bihar on the basis of the certificate issued by the said Bhartiya Siksha Parishad, Lucknow, U.P.

6. The Learned Counsel appearing for the petitioners after drawing the attention of this Court to the documents, as enumerated above, submitted that the petitioners are in possession of valid Teachers' Training Certificate and the respondent State although considered their cases and placed their names in the provisional Select List for appointments could not have denied the appointment on the ground that the Teachers' Training Certificate granted by Bhartiya Siksha Parishad, Lucknow, U.P., is not recognised without taking any conscientious decision at the Government level after taking into consideration the documents mentioned above in its correct perspective.

7. The Learned Counsel further submitted that the representation of the petitioner, as contained in Annexure-15 series, made to the concerned District Superintendent of Education has remained unconsidered, which they ought to have considered in accordance with law.

8. The petitioners as well as the intervenors have prayed for a direction commanding the respondents to consider their cases for appointment taking into consideration that the Teachers' Training Certificate obtained by them from Bhartiya Siksha Parishad, Lucknow, U.P., as legal valid and recognised for the

purpose of appointment, as per the Statutory Rule for Teachers" Appointment in absence of any specific stipulation as to the name of the institutes which is recognised institute by the State of Bihar under the said Rule.

9. Shri Lalit Kishore, the learned Additional Advocate General No. 3, appearing on behalf of the State advanced his argument on the basis of the statements made in the counter affidavit as well as the supplementary counter affidavits as also the copy of the documents vide letter No. 2304 dated 14.12.2006, as contained in Annexure-A to the counter affidavit filed on behalf of the respondent No. 7, written by the Director, Research & Training, Patna in the Department of Human Resources Development, to the effect that on the basis of the informations received from the N.C.T.E. that the name of the Bhartiya Siksha Parishad, Lucknow, U.P., is not included in the list of the Training colleges maintained by the N.C.T.E.

10. The learned Additional Advocate General No. 3 also drew the attention of the Court to the letter No. 472 dated 28.03.2007, as contained in Annexure-A to the counter affidavit filed on behalf of the respondents 1, 2 & 3, to the effect that the letter dated 16.10.2006 (Annexure-17) issued by the District Superintendent of Education, Madhepura containing the list of the recognised institutions including the Bhartiya Siksha Parishad Lucknow, U.P., stands withdrawn.

11. During the hearing it was further contended on behalf of the State that neither the aforesaid Bhartiya Siksha Parishad, Lucknow, U.P., is recognised by the State of U.P., nor by the N.C.T.E. nor by the State of Bihar, as such, no credit can be given to the writ petitioners as well as the interveners for their appointment on the basis of the training certificate issued from Bhartiya Shiksha Parishad, Lucknow, U.P., on the post of Teachers" under the Teachers" Appointment Rules, 2006. Accordingly, it was submitted that all the writ applications as well as the prayer of the intervenors deserves to be dismissed.

12. After having perused the pleadings of the parties, the copy of the relevant documents, as recorded above, this Court finds that under the various orders of the Hon"ble High Court at Allahabad, Madras as also this Court, the certificates granted by Bhartiya Siksha Parishad, Lucknow, U.P., have been taken into consideration and acted upon by the concerned authority for appointment on the post of Teachers". It, further appears that under the instructions of the Commissioner-cum-Secretary, Human Resources Development Department, Government of Bihar, Patna, in its letter dated 13.9.2006 and 18.9.2006 as obtained in Annexures 24 & 23 respectively that the concerned authority processing the appointment in question, should look into the list of recognised institutions issued by the N.C.T.E., list of such institutions issued by other States as well as by the State of Bihar as also the order passed by the Hon"ble High Court.

13. The writ petitioners who have obtained the Teachers" Training Certificate prior to coming into force of the N.C.T.E. Act, 1993, i.e. 17th August, 1995

should be taken to. have validly obtained the certificate notwithstanding whether the name of the institute in question finds place in the list of N.C.T.E. or not?, and secondly there is no approved list brought on record by the respondent State with respect to the recognised institutions issued by the State of Uttar Pradesh and State of Bihar after taking any conscientious decision, as such, the three line letter dated 14.12.2006, as contained in Annexure-A to the counter affidavit filed on behalf of the respondent No. 7, could not be taken to be a conscientious decision at the level of State Government, which would be deciding the fate of a large number of candidates. Moreover, the quality of Teachers' Training imparted by the Bhartiya Siksha Parishad, Lucknow U.P., is of no lesser value than the Teachers' Training Certificate course imparted by the University of this State in light of the syllabus for such course besides the fact that one of the University namely Bharathi Dasam University, Tiruchirapalli (Tamil Nadu), as per its letter dated 13.1.2003, as contained in Annexure-A to the I.A. No 1024 of 2007 has specifically stated that the Teachers' Training Certificates granted by the Bhartiya Siksha Parishad, Lucknow, U.P., is equivalent to the certificates granted by the said University. Therefore taking into consideration the discussions made above, the respondent State is directed to take a conscientious decision at the State Government level with regard to recognition of Bhartiya Siksha Parishad, Lucknow, U.P., after taking into consideration the relevant documents including the documents as taken note in the foregoing paragraphs of this order as well as any other relevant documents available on the subject.

14. In the meantime, the respondents are directed to consider and process the candidature of the writ petitioners for their appointment as Teachers' under the aforesaid Teachers' Appointment Rules, 2006 pending consideration and final decision taken by the State on the question of recognition of Bhartiya Siksha Parishad, Lucknow, U.P., as a recognised Institution.

15. However, it goes, without saying that in case any adverse decision is proposed to be taken with regard to the appointment of the concerned candidates including the writ petitioners on the question of the aforesaid Teachers' Training Certificate, action should be taken in accordance with law after following the rule of natural justice. All the above writ applications are, accordingly, disposed of with the above observations and directions.