
(2008) 05 PAT CK 0051
In the Patna High Court

Soni Kumari and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-05-2008

Acts Referred:

Citation : (2008) 05 PAT CK 0051

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navaniti Prasad Singh, J.—In all these writ applications, a common question arises as to whether Intermediate Vocational Course as conducted by the Bihar Intermediate Education Council or its equivalent is equivalent to I Sc/I A/1 Com. The petitioners were either excluded from selection on the ground of non-equivalence or not finally selected on that ground or having been selected were dismissed on that ground.

2. Parties have been heard and with their consent, all these writ applications are being disposed of at the stage of admission itself as in view of this Court, the controversy does not survive.

3. A post of Panchayat Shikchak/Prakhand Shikchak was created by the State under the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 with effect from 01.07.2006. These teachers were known as Panchayat Shikchak/Prakhand Shikchak and are Primary Teachers who are to teach students of Classes-I to V only. Rule 8 of the Rules above mentioned provide that the qualification for being appointed on the post of Panchayat Shikchak/Prakhand Shikchak would be minimum Higher Secondary/Intermediate or its equivalent degree from Government recognized Institution.

4. The petitioners submit that the Bihar Intermediate Education Council, way back in 1996 itself, clarified that Intermediate Vocational Course which was a 10+2 Course was equivalent to I Sc/I A/I Com which are also a 10+2 Course.

This was already there when the Rules were framed and the Rules did not provide for any exceptions or exclusion of this Course. In support of the contention, the petitioners have relied on the judgment of this Court in Ranjeet Kumar Vs. The State of Bihar and Others, and the judgment in review application against the said judgment being judgment dated 30th April, 2008 passed in Civil Review No 146 of 2007 as also on the judgment dated 19.02.2008 in the case of Prakash Kumar and Ors. being CWJC No. 4878 of 2007 alongwith analogous cases.

5. In the last case, their Lordships referred the earlier case and as light change in the facts. In one of the writ petitions, this Court had remanded the matter to the Director, Secondary Education who then by his order dated 30.04.2007 held that the two were not equivalent and, as such, held Intermediate Vocational Course not to be equivalent to I A/1Sc/I Com. This order of the Director was also considered in the last mentioned decision and set aside. In view of the aforesaid judgments as well as Rule 2 (k) of the Bihar Intermediate Education Council (Establishment of Colleges and Conduct of Examination) Rules, 1994 which defines faculty to mean faculty of Arts, Science, Commerce or Vocational Education of a College or Institution.

6. I have no option but to hold that the stand taken by the respondents cannot be sustained. It must be held that Intermediate Vocational Course Degree from Bihar Intermediate Education Council or its equivalent is equivalent to Intermediate of Science/Arts/Commerce more so keeping in mind the nature of the duty of these Panchayat Shikchak/Prakhand Shikchak who have only to teach students of Classes-I to V and not above that.

7. In so far as those writ petitioners are concerned who were selected but were subsequently dismissed, their dismissal orders are set aside and they are directed to be reinstated with full back wages as the dismissal was clearly unlawful. So far as those writ petitioners are concerned whose applications were considered but they were not considered for final appointment because of lack of educational qualification, they would be liable to be considered and if in the panel, they would have qualified for appointment, they would have to be appointed and in case there is no vacancy left as they were wrongly deprived of appointment, the last person in the merit would have to go if the number cannot be increased otherwise. Similar would be the position with regard to those persons whose applications were returned as being incompetent for lack of educational qualification. They would be similarly adjusted. All these steps have to be taken by the respondents within a period of one month from today.

8. With these observations and directions, all the aforesaid writ applications are allowed.