

(1993) 07 PAT CK 0036
In the Patna High Court
Case No : C.W.J.C. Nos. 322 and 539 of 1993

Tarun Kumari and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 20-07-1993

Acts Referred:

Citation : (1993) 07 PAT CK 0036

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—The prayer of the petitioners in these writ applications is for a direction to the respondents to take their admission in General Nursing and Midwifery course which as been refused to them on the ground that they do not possess the requisite qualification for admission to the said course.

2. The case of the petitioners is that they have passed the Madhyama examination from Hindi Sahitya Sammelan, a constituent unit of Hindi Vishwavidyalaya, Allahabad. On the strength of the said educational qualification they had applied for their ad-mission in the course in question pursuant to the newspaper advertisement dated 23-3-1991 (Annexure 1). But the same has been denied to them on the ground that Madhyama is not equivalent to 10 + 2 or the Intermediate examination held by any University/Board having recognition of the State Government or the Central Government.

3. Learned counsel for the petitioners has strenuously submitted that in view of the decision of the Bihar Government in the department of Personnel and Administrative Reforms dated 6-1-1987 (Annexure 4) and the interpretation given to the same by a Bench of this Court in the case of Nilam Kumari v. State of Bihar (C.W.J.C. No. 7123 of 1992) D/- on 21-4-1993, the petitioners ought to have been held to have possessed the requisite qualification entitling them to admission to the course in question and, therefore, they are entitled to a writ of mandamus for the reliefs claimed for.

4. From the advertisement (Annexure-1), it is quite clear that the minimum

educational qualification prescribed for getting admission to the course in question is passing of 10+2 or Intermediate Examination from an University/ Board which has been recognized by the State Government or the Central Government.

5. So far as the examination of Madhyama held by Hindi Vishwavidyalaya, Allahabad, is concerned the same has been accepted to the equivalent to B.A. Part I or Intermediate by the Government in its letter dated 6-1-1987 (Annexure-4) for the period only up to 31-12-1987 that too for the purpose of appointment in Government services. The column "5" Of the said Government decision further provides that passing of such examination will be deemed to be equivalent to the required qualification of B.A. Part I or Intermediate provided the candidates have passed the prescribed examination in English from the prescribed University or Board.

6. In the present writ applications no statement has been made on behalf of any of the petitioner that they have passed the required examination in English as prescribed in the Government decision (Annexure 4). Further the said decision was only in relation to giving appointment in the Government service and has no bearing on admission to any particular course of study like the present case, which is governed by its own statutory provisions.

7. In any view of the matter the privilege offered under the above referred Government decision has ceased to exist after 31-12-1987. Therefore, for each of the reasons enumerated above taking jointly or severally, the petitioners cannot be said to have made out any case for getting the reliefs claimed.

8. So far as the case of Nilam Kumar (supra) is concerned to which one of us (G.C. Bharuka J.) was a member of that Bench, it has got no bearing on the facts of the present case, In that case no doubt the petitioners have been allowed their admission on the basis of their passing of Madhyama examination. But the said admission was sought to be cancelled at the fag and of completion of the entire course of studies. Therefore, this Court relying on a decision of the Supreme Court in the case of Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, took the view that even if the qualification held by those petitioners was not equivalent to the minimum qualification for admission to the course in question, but since the error was of the authority in granting admission, at a belated stage, particularly keeping in view the prejudice caused to those petitioners, they are stopped from cancelling their admission at a point of time when they had almost Completed their studies. In the present case that is not the situation. The authorities are not permitting the admission of the petitioners on the ground that they are not possessing the requisite minimum qualification prescribed for admission to the said course. Similar view has been taken by us recently in the case of Kumari Puspallata v. State of Bihar (C.W.J.C. No. 5608 of 1993) D/- 13-7-1993.

9. In view of the discussions made above, in our opinion, no relief can be

granted to the petitioners. The writ applications are, accordingly, dismissed but without any order as to costs. Petition dismissed.