

(2011) 07 PAT CK 0001

In the Patna High Court

Case No : LPA Nos. 1604 and 1582 of 2010

The State of Bihar and Others

APPELLANT

Vs

Binod Kumar and Others Vs The State of Bihar and Others Vs
Suman Kumari

RESPONDENT

Date of Decision : 18-07-2011

Acts Referred:

Citation : (2011) 07 PAT CK 0001

Judgement

1. This L.P.A. has been filed by the State of Bihar against the judgment and order dated 1.4.2009 passed in C.W.J.C. No. 10370 of 2008 Reported in Binod Kumar and Others Vs. The State of Bihar and Others, C.W.J.C. Nos. 18832 of 2008 Reported in Binod Kumar and Others Vs. The State of Bihar and Others, and 13142 of 2008 Reported in Binod Kumar and Others Vs. The State of Bihar and Others, solely on the ground that the College from which the petitioner obtained the certificate in the relevant year, was not recognized by the National Council of Teacher Education (NCTE). The Division Bench of this Court has already held in L.P.A. No. 387 of 2009 that the institution from which the petitioner obtained certificate is not a recognized one as per prescribed qualification by the State of Bihar. Learned counsel for the respondent-petitioner vehemently argued that the case is fully covered under the proviso (iii) of sub-clause-A of Rule 4 whereunder there is specific provision with respect to acceptance of certificate issued by recognized institution before promulgation of N.C.T.E., and after promulgation of N.C.T.E., the certificate issued by the institution duly recognized by the N.C.T.E. having two years teaching experience.

2. Emphasis was led on the last two lines that the proviso clearly speaks about the training obtained from a recognized Teachers Training College for two years. Since the petitioners obtained the certificate prepared under this provision before enforcement of the NCTE Act. Therefore, it is fully applicable before the enforcement of the NCTE Act. Therefore he is fully entitled for appointment.

3. From perusal of the judgment of the Division Bench wherein it has held in

respect of the same College that it is not recognized. Therefore, we do not find any force in the submission made by the learned counsel for the respondent-petitioner.

4. The learned Single Judge has referred a Division Bench judgment reported in 2001 P.L.J.R. 583 Reference of 2001 PLJR 583 here appears to be an error for the reasons (i) No DB case with said reference, or on the subject exists; (ii) The Single Judge Order (under challenge in this LPA) refers to CWJC 1387/2007 and analogous cases which is reported in Rajesh Roushan and Another Vs. The State of Bihar and Others, which again is a Single Judge Order. In Para 12 thereof (at Pg. 139) the Rajesh Roushan and Another Vs. The State of Bihar and Others, has also subjected its Order to decision of LPA if pending against Order of earlier Single Judge Rajesh Roushan and Another Vs. The State of Bihar and Others, which has been placed before us but it has been established by the State that the said institution was never recognized by the State of Bihar which will be the period of training during which the petitioner obtained Teachers Training certificate. Thus, the appeal is allowed on merit. The order of the learned Single Judge is set aside.

5. Learned counsel for the respondents-petitioners could not brought (sic--bring?) before us any document showing the recognition of the said institution in 2006 i.e. the said institution was recognized by the State of Bihar for Teachers Training Certificate. Learned counsel for the respondent-petitioner put reliance on the letter dated 18th December, 1984 issued to the Registrar, Gandhi Hindi Vidyapith, Allahabad, by the Government of India, Ministry of Education which reads as follows:--

No. F.11023/58/77-T-7

Government of India, Ministry of Education and Culture (Department of Education) New Delhi, the 18th Dec., 1984

To,

The Registrar Gandhi Hindi Vidyapith Prayag, 60, Dulragarh Azmal (Near Nakhan Comer), Allahabad.

Sub.: Recognition of Baby Teachers Certificate course as equivalent to Basic Teachers training matter regarding.

Sir,

With ref. to your letter No. 10782 dated 25th Aug., 84 on the subject mentioned above. I am to state that the proposal under information has been considered by the Board of annulment for Educational Qualifications at its 14th meeting held on, 1st Dec, 1984. The Board recommended that the Baby Teachers Certificate course run of the Gandhi Hindi Vidyapith Prayag be recognized for employment to the posts and services under the Central Govt.

Yours faithfully Sd/- R.S. Mahashwari Deptt. of Education and Culture (T)

6. The letter is not going to help the respondent-petitioner any way because of the fact that it denotes the decree of the Central Government and not of the State and further State is not guided by the spirit of the aforesaid letter. Education being in agreement and filled recognition is not occupied by the Central Legislation. Therefore, State of Bihar is duty bound to take a decision with respect to recognition of the Certificates issued/prepared to the NCTE Act with regard to the recognition of the College run by Gandhi Hindi Vidyapith, Allahabad.