

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.669 of 2022

In
Civil Writ Jurisdiction Case No.14676 of 2022

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Nandeshwar Kumar, Male, aged about 50 years, Son of Late Baleshwar Singh
Resident of Village- Ashrafpur, P.O.- Supaul, P.S.- Patori, District-
Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through the Director, Education Department, Government of Bihar, Patna.
2. The Director, Education Department, Government of Bihar, Patna.
3. The Principal Secretary, Education Department, Bihar, Patna.
4. The District Magistrate, Vaishali.
5. The District Education Officer (DEO), Vaishali.
6. The District Programme Officer (DPO) (Establishment), Vaishali.
7. The Block Development Officer (BDO), cum the Secretary Block Teacher Employment Unit Mahnar, District- Vaishali.
8. The Block Education Officer (BEO), cum Secretary, Mahnar, Prakhhand Teacher Niyोजan Unit, Vaishali.

... .. Respondent/s

with

Miscellaneous Jurisdiction Case No. 1693 of 2018

In

Miscellaneous Jurisdiction Case No.728 of 2017

=====

Nandeshwar Kumar S/o Late Baleshwar Singh@Baleshwar Sinha Resident of
village - Ashrafpur, P.O. Supaul, P.S. Patori, District - Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Dr. Sangeet Sinha, the District Education Officer, Vaishali.
3. Sri Dinesh Kumar Choudhary, The District Programme OfficerEstablishment, Vaishali.
4. Dr. Sudarshan Kumar, The Block Development Officer-Cum-Block Teacher Employment Committee, Mahnar,
5. Sri Binda Mahto the Block Education Officer, Mahnar Block, District- Vaishali.
6. Smt. Sheela Devi, Block Pramukh, Mahnar Block, District- Vaishali.
7. Sri. Pramod Kumar Singh, the Principal Govt. Middle School, Rupasipur, Mahnar, Vaishali.



... .. Opposite Party/s

Appearance :

(In Letters Patent Appeal No. 669 of 2022)

For the Appellant/s : Mr. Rajesh Kumar Sharma, Advocate

Mr. Rohan Verma, Advocate

For the State : Mr. Ram Vinay Pd. Singh, AC to GA XII

(In Miscellaneous Jurisdiction Case No. 1693 of 2018)

For the Petitioner/s : Mr. Chandra Bhushan Verma, Advocate

For the Opposite Party/s : Mr. Ashutosh Ranjan Pandey, AAG 15

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-07-2025

In LPA No. 669 of 2022

Appellant – Nandeshwar Kumar has assailed the order of the learned Single Judge dated 10.11.2022 passed in CWJC No. 14676 of 2022. Brief facts of the case are that the appellant was appointed to the post of Block Teacher by the Block Teacher Employment Unit, Manhar, Vaishali *vide* Niyozan Letter No. 75 dated 11.09.2007. Pursuant to the order of appointment, he had joined as Block Teacher in Government Middle School, Rupsipur on 13.09.2007. When things stood thus BDO-cum-Secretary, Block Teacher Employment Unit, Manhar issued a show cause notice to the appellant on 06.11.2015 as to why his selection and appointment to the post of Block Teacher shall not be cancelled in the light of the fact that teacher training certificate obtained by him is not from recognized institution. The appellant had submitted his explanation. The same was not satisfied, thereafter, the concerned



authority proceeded to dispense the services of the appellant while dismissing him from service on 02.12.2015. It was the subject matter of CWJC No. 19322 of 2015 which was disposed of on 11.01.2016, directing the appellant to invoke remedy of appeal before the District Teacher Appellate Authority, Vaishali on 11.01.2016. On 20.02.2016, appellate authority set aside the order of dismissal with a direction to reinstate the appellant. The appellant filed a contempt of Court petition *namely* MJC No. 728 of 2017, it was disposed of in the light of the fact that appellant was reinstated on 20.02.2016. The appellate authority is stated to have issued a fresh order on 16.02.2022 which is the subject matter of CWJC No. 14676 of 2022 and the writ Court passed order while dismissing CWJC on 10.11.2022. Hence, the present LPA.

2. Core issue involved in the present *lis* is whether possession of teacher training certificate by the appellant issued by Dr. B.C. Roy College of Education, Calcutta, State of West Bengal affiliated and guided by AIES (All India Education Society) is Government registered or not and its validity. The appellant was issued with the senior teacher training certificate on 09.01.1995 pursuant to the date of examination as 28.08.1994. This is one of the eligibility for the purpose of Block Teacher selection and



appointment. Thus, the appellant was appointed. After about eight years, official respondents have opened their eyes and proceeded to issue show cause notice as to why his selection and appointment to the post of Block Teacher shall not be cancelled. Further, there is no material information on behalf of the respondents to contend that State of West Bengal have de-recognized or cancelled the recognition and affiliation of Dr. B.C. Roy College of Education, Calcutta, State of West Bengal. In the absence of competent authority of the State of West Bengal cancelling the recognition or registration or affiliation of Dr. B.C. Roy College of Education, Calcutta, certificate is intact.

3. The next question would be whether National Council for Teacher Education Act, 1993 (hereinafter referred to as 'the NCTE Act') which is effective from 01.07.1995 could spring into action in respect of selection and appointment of the appellant or not ? It is undisputed that petitioner had obtained senior teacher training certificate on 09.01.1995 which is prior to introduction of the NCTE Act with effect from 01.07.1995, therefore, whatever the terms and conditions imposed in the NCTE Act has no application to the appellant's case and NCTE norms would be applicable from the prospective date and it has no retrospective effect.



4. Identical issues were subject matter of various litigation before different High Courts, whereas some of the matter were subject matter of Civil Appeal No. 3693 of 2020 arising out of Special Leave Petition (Civil) No. 27694 of 2018 in the case of ***Bhagirathi Prasad Dey vs. State of Jharkhand and Others*** decided on 17.11.2020. It is relevant to take note of paragraph Nos. 5 and 8 of the aforementioned decision and it reads as under :

“5. Insofar as the first category of cases are concerned, some of the decisions rendered by the High Court were as under:-

A) While dealing with Writ Petition (S) No.5412 of 2005 vide order dated 18.05.2006 Single Judge of the High Court made following observations:

“1. ... Further prayer has been made by the petitioner to declare that the provisions of National Council for Teacher Education Act, 1993 (hereinafter to be referred as the ‘N.C.T.E. Act’) which came into effect since 1st July, 1995 are prospective and shall have no effect or abrogation to the accrued right of obtaining decree or diploma.

... ..

9. It has been held by the Court that the NCTE Act 1993 came into force since 1st July 1995 and after six months thereafter i.e. after 1st January, 1996 nobody, offering a course or training in teachers education, can run the institute without prior recognition by the National Council for Teachers Education. The petitioner having passed the examination in the year 1992 itself, the question of recognition of Dr. B.C. Roy College of Education, Calcutta, by the National Council of Teachers Education at the relevant point of time does not arise. The Director, Primary Education, Jharkhand, Ranchi, has failed to appreciate the aforesaid facts and simply giving reference to the High Court’s decision, rendered in the case of Dilip Kumar Gupta and Ors (supra), cancelled the provisional approval,



as was given by the District Superintendent of Education, Singhbhum West, Chaibasa.”

The aforesaid decision was affirmed in LPA No.400 of 2006 by the Division Bench of the High Court vide order dated 24.11.2006, which made following observations:

“Further, it is noticed, as correctly pointed out by Mrs. I. Sen Choudhary, learned counsel appearing for the appellants, National Council for Teachers Education Act came to be introduced on 1st July, 1995. It is true, as strenuously contended by Mrs. Sen Choudhary, counsel for the appellants, that the Division Bench made an observation entertaining doubts with regard to the genuineness of the Institution granting teachers' training certificate. But, however, it is correctly pointed out by the learned counsel of the respondent that that portion has been expunged by the Supreme Court vide order dated 3.3.2006, holding that the Division Bench could not have entertained those doubts in the absence of anything to show that the other parties were heard on the relevant question. As such those observations cannot be made use of by the authorities for passing the order impugned in the writ petition. So, in our view, the direction given by the learned Single Judge, directing the authority to pay the salary of the petitioner/respondent, is perfectly valid and justified.”

The matter was carried further before this Court. However, Special Leave Petition (Civil) CC No.4396/2007 was dismissed by this Court vide order dated 14.05.2007.

B) Various orders passed by other Single Judges of the High Court took the similar view and by way of example, we may cite two such orders where following directions were issued:

i) Order dated 13.09.2010 in Writ Petition No.393 of 2010:

“7. The Committee on its formation rejected the claim of the petitioner, as the petitioner had obtained degree in training from Sister Nivedita College, Kolkata, which was not a recognized college, but the Committee failed to consider that the N.C.T.E. Act came into force w.e.f.



1.7.1995, whereas the petitioner had obtained B.Ed. (training) degree from the said Institute in the year 1989 and under this situation, this Court in the case of Kalpana Lodhiya (supra) has been pleased to hold that the training degree obtained from Sister Nivedita College, Kolkata prior to 1995 must be recognized as valid training degree, as N.C.T.E. Act, which was promulgated in the year 1993, came into force w.e.f. 1.7.1985. Thus, the order, under which Three Members Committee did not find the petitioner to be eligible for regularization, is hereby set aside.”

ii) Order dated 15.09.2011 in Writ Petition (S) No.5568 of 2009:

“6. The reasons given by the Three Member Committee that the petitioner has not cleared his teachers training certificate examination is incorrect mainly for the reason that looking to Annexure-15 to the supplementary affidavit filed by the petitioner, this certificate was already given to the School authorities by the petitioner and they have to submit to the Committee. The supplementary affidavit filed by the petitioner is dated 7th July, 2011. In view thereof or otherwise also, looking to the annexures annexed by the petitioner in this petition and subsequently affidavit before this Court in this matter, it appears that the petitioner has cleared his teachers training certificate examination on 16th March, 1994 and as this certificate examination has been cleared prior to enforcement of the Act of 1993, his case is alike to other writ petitions of the aforesaid decided cases.

7. As a cumulative effective of the aforesaid facts, reasons and judicial pronouncements, I hereby quash and set aside the report given by the Three-Member Committee which is at Annexure-B to the counter affidavit filed by respondent No.2 to the extent to which it affects the present petitioner and the reasons given in the said report for the present petitioner is de hors to law for the reasons stated herein above and I, hereby direct the respondents that services of the petitioner may be recognized and necessary order may be passed to that effect and the petitioner will be entitled to all the consequential benefits including salary.”

8. The instant case comes in the ‘Ist Category’ of cases as stated above. Insofar as that category is concerned, the matter stands concluded by the decisions of the High



Court, which were confirmed by dismissal of Special Leave Petition arising therefrom. In the circumstances, the Division Bench was not justified in taking a different view in the matter.”

Reading of the paragraph Nos. 5 and 8 of the aforementioned decision, it is squarely covered in favour of the appellant, the same has not been apprised by the learned Single Judge and so also not apprising the fact that appellant was in possession of senior teacher training certificate on 09.01.1995 and NCTE Act, 1993 which is in vogue with effect from 01.07.1995 has no application to the case in hand. Further, in order to ascertain whether Dr. B.C. Roy College of Education, Calcutta, State of West Bengal is recognized or not recognized, to that effect there is no material information and that too from the competent authority of the State of West Bengal. The State has also not ascertained from the State of West Bengal whether Dr. B.C. Roy College of Education, Calcutta, State of West Bengal is a genuine institution and other correspondence so as to contend that the appellant is not in possession of valid teacher training certificate. These are all the issues which have not been adjudicated by the learned Single Judge, therefore, appellant has made out a case so as to interfere with the order of learned Single Judge dated 10.11.2022 passed in CWJC No. 14676 and the impugned order dated 16.09.2022 before the learned Single Judge are set aside.



5. The concerned authority is hereby directed to reinstate the appellant within a period of three months from the date of receipt of this order and extend all service and monetary benefits from the date of dispensing of services of the appellant and the same shall be calculated and disbursed in his favour within a period of four months from the date of receipt of copy of this order.

6. Pending I.A., if any, stands disposed of.

In MJC No. 1693 of 2018

7. MJC No. 1693 of 2018 does not survive for consideration in view of later development insofar as disposal of CWJC No. 19322 of 2015.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	11.07.2025
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