

Prithavi Sharma Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Aug-16-2007

Judge : J.N. Bhatt, C.J. and Kishore Kumar Mandal, J.

Acts : National Council of Teacher Educational Act, 1993 - Sections 14 and 14(1)

Appeal No. : L.P.A. No. 716 of 2006

Appellant : Prithavi Sharma

Respondent : The State of Bihar and ors.

Advocate for Def. : P.K. Singh, J.C. to G.A.

Advocate for Pet/Ap. : Aditya Narain Singh, Adv.S.N. Pathak, Adv.Gyanendra Kumar Shukla, Adv.

Disposition : Appeal dismissed

Judgement :

J.N. Bhatt, C.J.

1. By this Letters Patent Appeal under Clause 10 of the Letters Patent of the Patna High Court, the challenge is against the judgment, dated 31.8.2006, recorded by the learned Single Judge, in a writ application being CWJC No. 3206 of 2006.

2. Upon request of the learned Counsels for the parties, this appeal is taken up for final hearing at the stage of admission itself.
3. The appellant is the original writ petitioner, who appeared at the Primary Teachers' Training examination in the year 1991, conducted by the Bihar School Examination Board. The institution, namely, Gautam Budha Primary Teachers' Training College, Shri Nagar, Rohtas, from where the appellant - original writ petitioner, got training, was not recognized by the Government, as required by the law. The result of the appellant was not published which led to filing of a writ petition by, the institution, being CWJC No. 5338 of 1990. In the said writ petition, the recognition of the institution was sought along with the relief to sponsor its candidates to appear at the examination to be conducted by the respondent Board.
4. The said writ petition came to be disposed of by order dated 12.9.1990 with a direction to the Government to consider the recognition matter and at the same time, to permit the institution to sponsor its students to appear at the examination to be conducted by the respondent Board. It was further directed that the result of those sponsored students shall not be published until question of recognition of the institution is finally decided by the State Government one way or the other.
5. Again, a further direction was given that the publication of the result shall abide by the final decision in the recognition matter. It will be interesting to refer here a further clarification which was given in the said decision itself that the result of those sponsored students shall be published only in case of recognition is accorded to the institution.
6. Basing the claim on the said observation in the said writ petition, the appellant-original writ petitioner was permitted to appear at the examination and, therefore, when the result was not published, he, along with others, filed a writ petition being CWJC No. 3206 of 2006, which came to be decided on 31st August, 2006 by the learned Single Judge rejecting the prayer for a direction to the respondent Board to declare the results. In that, it was contended on behalf of the appellants - original writ petitioner that the recognition matter has yet not been decided. It is, therefore, not in dispute that the institution where the training was received and the

examination was sponsored, has yet not been recognized.

7. The learned Single Judge has dismissed the writ petition on the ground that the result of the appellant - original writ petitioner shall be published only in case of grant of recognition to the institution and the appellant original writ petitioner being beneficiary of the said order, cannot seek a divergent, contrary or conflicting relief. Hence, this Letters Patent Appeal.

8. There is no dispute about the fact that so many unrecognized institutions started admitting students and some of them sponsored examinations in the State of Bihar diametrically opposite to the legal provisions, and thus, degenerated and disintegrated the educational and examination mechanism in the State of Bihar in so many cases. Therefore, a number of matters have come before this Court time and again, which have been decided with the only conclusion of rejection and that no educational system can be permitted to emerge which has no legal sanction. Some matters are also decided by Division of this Court and some of them have reached to the highest Court which would be very clear from the decisions in the following cases:

(i) : [1993]3SCR985 (St. John's Teachers Training Institute (For Women), Madurai and Anr. v. State of Tamil Nadu);

(ii) : AIR 2000 SC3084 (Muthu Kumar and Anr. v. State of Tamil Nadu and Ors.);

(iii) 2003 (4) PLJR 197 (B.N. Mandal University v. Md. Mushtaque Alam and Ors.);

(iv) 2005 (4) PLJR 607 (Arajkaiya Khwaja Shahid Hussain Primary Teacher Training College v. The State of Bihar and Ors.);

(v) 2007 (1) PLJR 69 (SC) (Minor Sunil Oraon Tr. Guardian and Ors v. C.B.S.E. and Ors);

(vi) LPA No. 193 of 2007, disposed of on 15.3.2007 (Nibha Kumari and Ors. v. The Central Board of Secondary Education and Ors.);

(vii) LPA No. 158 of 2007 disposed of on 28.2.2007 (Central Board of Secondary Education v. Bharat Singh and Ors.);

(viii) LPA No. 515 of 2006, disposed of on 7.2.2007 (Jamil Akhtar and Ors. v. The State of Bihar and Ors.)

9. The facts of the above cases are squarely attracted to the facts of the present case.

10. The copy of the judgment which is relied on by the learned Counsel for the appellant original writ petitioner and placed as Annexure 3 with the main writ petition, on reading, is found to be of no avail to the appellant - original writ petitioner. That apart, the training period during 1987-89 has crossed more than two decades. It cannot be allowed to contend that the appellant original writ petitioner was under bona fide impression that he is the student of a valid college having recognition. This ground is not germane. There would not arise any question of legitimate expectation. The question of recognition cannot be put into oblivion while appreciating the plea of legitimate expectation. Such doctrine does not come into play in such academic matter.

11. There is no dispute that the recognition of the institution has not been accorded. The institution which had to seek recognition is not made a party for the reasons not known to us. Subsequently, the National Council of Teacher Educational Act, 1993, has been brought into force and Sub-section (1) of Section 14 of Chapter IV of the said Act provides for recognition of the teachers education institution. Sub-section (1) of Section 14 of the Act reads as hereunder:

14. Recognition of institutions offering course or training in teacher education..- (1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations;

Provided that an institution offering a course of training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

12. The underlying design and spirit of the aforesaid provisions also come in the way of the appellant. It is also not comprehended as to how a second writ petition is maintainable on the basis of the observations and direction contained in the first writ petition which has attained finality. On all these grounds, this appeal deserves to be dismissed at the threshold.

13. In the result, this Letters Patent Appeal shall stand dismissed. No costs.

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