

Dilip Kumar Gupta and ors. Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Mar-30-2005

Reported in : 2005(2)BLJR1059; [2005(2)JCR293(Jhr)]

Judge : S.J. Mukhopadhaya and; Narendra Nath Tiwari, JJ.

Acts : National Council of Teachers Education Act, 1993 - Sections 12, 14, 15, 16 and 32(2); Non-Government Primary Teachers Education College (Control and Regulation) Act, 1981; The Hindi Sahitya, Sammelan Act, 1962 - Sections 6; Kameshwar Singh Darbhanga Sanskrit Vishvidyalaya Act, 1960; Bihar State Universities Act, 1976 - Sections 3; Jharkhand Primary School Recruitment Rules, 2002 - Rule 2, 3 and 4; Jharkhand Primary School (Amendment) Recruitment Rules, 2003; [Constitution of India](#) - Article 226

Appeal No. : L.P.A. Nos. 235, 236, 240, 246, 269, 271, 273, 289, 298, 300, 301, 306, 308, 322, 344, 382, 445, 518

Appellant : Dilip Kumar Gupta and ors.

Respondent : State of Jharkhand and ors.

Advocate for Def. : R.N. Sahay, Sr. SC II,; M.K. Roy,; J.P. Sinha,;

Advocate for Pet/Ap. : Bhanu Kumar and; Rajneesh Vardhan, Advs.

Disposition : Appeal dismissed

Judgement :

S.J. Mukhopadhaya

1. As in all the appeals and writ petition, common questions of law are Involved, relating to appointment to the posts of Primary Teachers in Nationalized Primary Schools, they have been heard together and are being disposed of by this common judgment.

2. In pursuance of an advertisement, published by the Jharkhand Public Service Commission, Ranchi (hereinafter to be referred as 'JPSC'), all the appellants/petitioners applied for appointment to the posts of Primary Teachers; most of them were declared successful by the JPSC but they have not been appointed on the ground that they do not possess the requisite qualifications i.e. decree/diploma/certificate of teachers training from an institute, recognized by the National Council for Teachers Education (hereinafter to be referred as 'NCTE').

3. In fact, after selection of the candidates, the JPSC recommended the names of the selected candidates on the condition that appointment letter(s) should be issued only after proper verification of the certificates, relating to academic, training and other qualifications as also the caste certificates etc. One of the questions raised was 'whether the Institution(s)/University(s), which has/have issued training certificate(s), is/are recognized or not'. The Human Resources Development (Primary and Secondary Education) Department, Government of Jharkhand Ranchi issued clarification by way of guidelines vide Memo No. 2912 dated 13th November, 2002, followed by Letter No. B-1-423/03-404 dated 16th February, 2004 to identify the recognized Institutes/Degree/Diploma/Certificates. Being dissatisfied with the same, different writ petitions, including W.P.(S) No. 588 of 2004 (Suresh Kumar and Ors. v. State of Jharkhand and Ors.), were preferred by the appellants along with others. They were heard together by the learned Single Judge, who by a common judgment dated 4th March, 2004, held that no direction can be given to the respondents to appoint the writ petitioners on the basis of Teachers Training Certificates, issued by unrecognized and private Institutions, who have conducted the examinations at their own and have declared the results. All the writ petitions were dismissed with the aforesaid observations.

4. Some other similar writ petitions, preferred by some of the appellants, were subsequently dismissed, following the decision of the learned Single Judge, passed In 'Suresh Kumar and Ors. (supra).

Question of law :

5. The main questions of law, involved in the present cases, are.

(i) Whether the expression 'recognized training institute', as mentioned in Rule 3(kha) of the Jharkhand Primary School Recruitment Rules, 2002 (hereinafter to be referred as 'Rules, 2002') means a Training Institute/University, recognized by NCTE or by a Statutory/Regulating Body or by any Government?

(ii) Whether Teachers Training Degree/Diploma/Certificate, obtained by the appellants/petitioners, have been granted by a recognized Training Institute/University, as occurring in Rule 2(kha) of Rules, 2002?

(iii) Whether the Degree/Diploma/ Certificate of 'Acharyar granted by Kamesh-war Singh Darbhanga Sanskrit Vishwavidyalaya, Darbhanga, Bihar, Laxmi Devi Sarraf Adarsh Sanskrit Mahavidyalaya, Jharkhand, Ranchi; 'Certificate of Guidance' ('C.I.G.' for short), granted by Indira Gandhi National Open University, New Delhi; 'Moallim-E-Urdu', granted by Jamia Urdu, Aligarh, Uttar Pradesh; 'Shiksha Alankar', granted by Rashtriya Patrachar Sansthan, Allahabad, Uttar Pradesh, are equivalent to Degree/Diploma/Certificate of Teachers Training?

Relevant common facts of all the cases :

6. The JPSC issued an advertisement in different newspapers in the month of August, 2002, inviting applications from the eligible candidates for filling up the posts of Primary Teachers in Nationalized Primary Schools. In the said advertisement, apart from district-wise vacancies, necessary educational qualifications i.e. (i) Matriculate or equivalent and (ii) Two Years Teachers Training or B.Ed./Dip. in Ed./Dip. in Teach of C.P.D., were also prescribed.

7. A large number of candidates, including the appellants/petitioners applied and were allowed to appear at the written .competitive test, held on 27th May, 2003.

The results of successful candidates, including some of the appellants, were published by the JPSC on 13th/14th November, 2003. The JPSC simultaneously issued Letter No. I/Exam. JPSC-99/2003-12/Sa. Ko. dated 13th November, 2003 to the Secretary, Primary and Secondary Education, Human Resources Development Department, Jharkhand, Ranchi. By the said letter while district-wise list of successful candidates were circulated, a separate district-wise list of successful candidates was also forwarded whose 'certificate and others information's' were found doubtful. It was informed that the result of those candidates have been kept in waiting. The competent authorities were also asked to accept the joining of the newly recruited persons, only after necessary verification of certificates as also other documents and in case of anything wrong, instead of appointing such candidate(s), to fill up the post(s) by persons whose names are appearing in the wailing list of successful candidates and who possess the requisite documents/certificates.

8. The Secretary, Primary, Secondary & Mass Education, Government of Jharkhand, Ranchi, thereafter, by Letter No. 8/B1-199-03-2912 dated 13th November, 2003 forwarded guidelines to all the Deputy Commissioners for appointment of the recommended candidates. It was informed that before issuance of letters of appointment, District Education Establishment Committee should keep in mind that ;--

(i) As per Rule 2(kha) of Rules, 2002, It should be verified that the candidate has obtained training from a 'recognized Training Institute' and is successful. It should be kept in mind that National Council of Teachers Education Act, 1993 (hereinafter to be referred as 'NCTE Act, 1993') has come into force with effect from 17th August, 1995 (1. Note : NCTE Act, 1993 came into force from 1st July, 1995 (appointed day) vide S.O. No. 620E dt. 1st July, 1995. But it has been wrongly shown as 17th August, 1995.), according to which a Teachers Training Institute should be recognized by NCTE. For those candidates, who have obtained training after 17th August, 1995 from a Teachers Training Institute, it should be verified whether such institute is recognized by NCTE or not. For those, who have obtained training before 17th August, 1995, it should be verified whether the Teachers Training Institute is recognized by the State Government, where the

institute is situated.

(ii) Under Clause (3) of Rule 2(kha) of the Jharkhand' Primary School Amendment Recruitment Rules, 2003, a candidate who has obtained 'CP.Ed. or Dip.in Ed. Certificate' can be appointed against a post of Physical Teacher. Such physical trained candidate can be appointed only against the post of Physical Teacher, etc.

9. Another instruction by way of reminder was given by the Secretary, Human Resources Development (Primary and Secondary Education) Department, Jharkhand, Ranchi, vide Letter No. 8/B1-199/03-3139/ Pri-Edn. dated 4th December, 2003. By the said letter, while all the Deputy Commissioners, Regional Deputy Directors of Education and the District Superintendents of Education of the State of Jharkhand were directed to verify the certificates and other documents of the recommended candidates, it was also informed that a large number of forged/ doubtful certificates have been found during the district-wise verification in the districts of Sahibganj, Hazaribagh, Chatra etc.. The officers were directed to ensure that no candidate is appointed on the baste of a forged or doubtful certificate. They were directed to follow the instructions, earlier given vide Letter No. 2912 dated 13th November, 2003 and Memo No. 2992 dated 21st November, 2003 and Memo No. 3010 dated 22nd November, 2003 issued by the Director, Primary Education. It was further asked to forward the list of candidates to the JPSC and Director, Primary Education, whose certificates were found to be forged/doubtful.

10. Detailed instructions and guidelines were issued by the Secretary, Human Resources Development (Primary and Secondary Education) Department, Government of Jharkhand, Ranchi, vide Letter No. 8/B-1-423/03-404 dated 16th February, 2004 after considering the relevant Rules, gist of which are mentioned hereunder :

Sl. No.SubjectGuidelines

a.Regarding appointment of the candidates, who have passed Teachers Training Examination from the State of J&K.;

The candidates who have passed the requisite Teachers Training Examination as per Rule 2(kha) from any University or Statutory Board/Council, situated within the State of J&K; they may be appointed as the NCTE Act, 1993 is not applicable in the State of J&K.; But affidavit should be obtained to the effect that they have passed the requisite Teachers Training Examination from a recognized Teachers Training Institute and their certificates are genuine and in case the Institute is not found recognized by the State of J&K.;, their certificates may be declared illegal and their services may be terminated without prior notice followed by legal action.

b. Regarding appointment of the candidates, who have passed Teachers Training Examination after commencement of NCTE Act, 1993 i.e. 17th August, 1995

Those candidates, who have passed Teachers Training Examination, as prescribed under Rule, as regular students or through correspondence course or distant education medium and the Institute has been recognized by the NCTE, they may be appointed, subject to the condition that those who have passed through correspondence course or distant education medium should have requisite teaching experience during the period of training. If any institution has not been recognized by the NCTE after 17th August, 1995 i.e. from the Sessions 1995-96 onwards the candidates, having passed Teachers Training Examination from such unrecognized institutions after 17th August, 1995, shall not be appointed in any circumstance.

c. Regarding appointment of the candidates, who have passed Teachers Training Examination prior to 17th August, 1995 from the institute, situated within the territory of unified State of Bihar.

With regard to the candidates, who have passed requisite Teachers Training Examination prior to 17th August, 1995 i.e. up to Sessions 1994-96 from Government and Non-Government Primary Teachers Training Colleges, situated within the territory of unified State of Bihar, it is made clear that the examination of students of such institutes used to be conducted and result used to be published by the Bihar School Examination Board. As such, those candidates, who have passed Teachers Training Examination from Bihar School Examination Board up to the Session 1994-96, can be appointed. Similarly those candidates, who hold B.Ed,

Degree, granted by any recognized University of the then State of Bihar prior to 17th August, 1995 i.e. upto the Sessions 1995-96, may also be appointed. But the certificates granted by B.N. Mandal University; Magadh University & Kameshwar Singh Darbhanga Sanskrit University, should be verified from the concerned University by sending special messenger (Gazetted Officer) prior to appointment of such candidates.

d. Regarding appointment of the candidates, who have passed Teachers Training Examination from other States.

The candidates, who have passed requisite Teachers Training Examination prior to coming into force the N.C.T.C. Act, i.e. prior to 17th August, 1995 from different Universities, situated in other States and are recognized by the University Grant Commission, may be appointed on receipt of affidavits that they have passed requisite Teachers Training Examination from a recognized Teachers Training Institute and their certificates are genuine. In case, it is found that their institutes are not recognized by the concerned State Government and/or certificate is found fake, their services can be terminated without prior notice, followed by legal action.

e. Regarding appointment of the candidates, who have passed Teachers Training Examination from the institutes, registered under Societies Registration Act and situated within the State of West Bengal.

Those candidates, who have passed from certain institutes situated within the State of West Bengal, such as, Ovid Hare College of Correspondence, Kolkata; Sister Nivedita College, Kolkata, Dr. B.C. Roy Education College, Kolkata; All India Education Society, Kolkata; All India Correspondence Coaching Society, Kolkata; etc. should not be appointed as these institutes themselves hold and publish the Teachers Training Examination Though these institutes are registered under the Societies Registration Act, but their Teachers Training Examinations are neither conducted nor their degree/Diploma are granted by any Statutory Body.

f. Regarding appointment of the candidates, who are untrained 'Acharya'.

In those cases, where the candidates hold degree of 'Acharya''Fazil' but are not trained, they should not be appointed as the degrees aforesaid are 'educational qualification' along with which Teachers Training qualification is mandatory.

g. Regarding appointments of the candidates, who have completed six months' Teachers Training Course.

Those candidates, who have passed six months' Teachers Training Course, should not be appointed, as none of the Teachers Training Course, as prescribed under Rule 2(kha) is of six months duration.

h. With regard to recognized institutes, situated in the State of U.P.

So far as the Teachers Training Institutes situated within the State of U.P., such as, Hindi Sahitya Sammelan, Prayag, Allahabad; Hindi Sahitya Sammelan, Allahabad; Rashtriya Patrachar Sansthan, Kanpur; Zamia Urdu, Aligarh; Rashtriya Kendriya Adhyapan Sansthan, Allahabad; Indira Gandhi College, Allahabad; Vocational Training College, Allahabad etc., are concerned, information has been sought from the Director, S.C.E.R.T., Lucknow and Director, Higher Education, Allahabad in regard to Teachers Training Certificates, granted by them prior to 17th August, 1995. On receipt of information, appropriate decision will be taken and communicated.

11. It is not denied in these cases that the appellants/petitioners have not obtained Teachers Training Certificates from any Teachers Training Institute/ University, recognized by the N.C.T.E. On the other hand, there is a dispute, raised by the respondents 'whether the Degree/Diploma/Certificate, obtained by one or other appellant/petitioner is equivalent to B.Ed./Dip.in Ed./Dip.in Teach or any other Teachers Training qualification and whether they are specified or unspecified degree/diploma/certificate'.

12. For determination of the issue 'whether the institutes from where the appellants/petitioners have obtained degree/ diploma/certificate are recognized institute, as envisaged under Rule 2(kha) of Rules, 2002 and whether such degrees/ diplomas /certificates are equivalent to B.Ed./Dip.in Ed./Dip.in Teach', it

is necessary to notice the standard of degrees/ diplomas/certificates, obtained by the appellants/petitioners and the status of the Institute/University from where they have obtained such degrees/diplomas/certificates. It is also necessary to notice the instructions and guidelines, as were issued from time to time by the then State of Bihar.

Recognition of Teachers Training Institute

13. In the year, 1980 for the first time when it came to the notice of the State of Bihar that large number of private Primary Teachers Education Institutes were being opened without fulfilling the minimum requisite criteria, it promulgated Ordinances and brought Acts viz. 'Bihar Non-Government Physical Training College and A/on Government Teachers Training College and Non-Government Primary Teachers Education College (Control and Regulation) Ordinance, 1980 (Bihar Ordinance 40, 1980)' followed by 'Non-Government Primary Teachers Education College (Control and Regulation) Act, 1981; prohibiting opening of private Primary Teachers Education Institutions without prior permission of the State Government, Stringent penal provisions, -such as, imprisonment of three years or fine of Rs. 10,000/- or both were laid down in case of violation of the legal provisions. Opening of such private Teachers Training Institutions without prior permission of the State Government was made an offence.

14. By Letter No. 10/M8-018-86-Part-5-Edn. 388 dated 12th May, 1987 Commissioner-cum-Secretary, Education Department, Government of Bihar, Patna, giving reference of the aforesaid Act, 1981, informed that the Government has opened Teachers Training Institutes so that Teachers can be trained in future. It was also clarified that the policy of the Government is not to encourage the private Teachers Training Colleges/Institutes.

15. In the year, 1991 it came to the notice of the State of Bihar that in spite of the provisions of the Act, 1981 and Letter No. 1107 dated 25th November, 1987 a large number of persons were enrolling themselves in unrecognized Teachers Training Colleges/Institutions. In Government Teachers Training College (Matric and Graduate) admissions are taken on merit but no such procedure is followed for admission in private Teachers Training Colleges. Most of the private Teachers

Training Colleges/Institutions were not following/fulfilling the prescribed norms/standards and became a source of earning. In such circumstances, Human Resources Development Department, Government of Bihar, Patna, vide Memo No. 10/Ba 3-56/80/116, Patna dated 6th March, 1991 decided to delete the mandatory requirement of Teachers training for the appointment of teachers and instead decided to impart in-service training in Government Teachers Training Colleges, after their appointment.

16. The National Council for Teachers Education, was set up in 1973 by a Central Government's resolution, as a National Expert Body to advise Central and State Governments in all matters, pertaining to Teachers education. Its role has so far been purely advisory due to which it has had very little impact on the standard of Teachers Training Institutions in the country and on their unplanned growth. To provide statutory powers to NCTE with an objective of determination, maintenance and co-ordination of standards in teacher education, laying down norms and guidelines etc. and to empower the council to make qualitative improvement in the system of teachers education in phasing out sub-standard institutions and sources for teacher education and with a view to empower NCTE to grant recognition to the institutions for a teacher education and permission to recognize institution for a new course or training in teacher education, the Central Government brought 'National Council for Teachers Education Act, 1993' (Act No. 73 of 1993), but it was given effect from 1st day of July, 1995. Chapter IV of Act, 1993 deals with recognition of Teachers Education Institution. Under Section 14 of Act, 1993 for offering or intending to offer a course or training in the teacher education it was made mandatory for an institute to obtain recognition from NCTE. Under Section 16 of the Act, affiliated body, including the Examination Body, were prohibited from granting affiliation and to hold examination, unless the institution concerned has obtained recognition from NCTE, as is evident from the relevant provisions, quoted hereunder :

'14. Recognition of institutions offering course of 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.

(2) The fee to be paid along with the application under Sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under Sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall--

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an Order granting recognition to such institution, subject to such condition as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfill the requirements laid down in Sub-clause (a), pass an Order refusing recognition to such institution for reasons to be recorded in writing :

Provided that before passing an Order under Sub-clause (b) the Regional Committee shall provide a reasonable opportunity to the concerned institutions for making written representation.

(4) Every Order granting or refusing recognition to an institution for a course or training in teacher education under Sub-section (3) shall be published in the official gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every institution in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the Order refusing recognition passed under Clause (b) of Sub-section (3).

(6) Every examining body shall, on receipt of the Order under Sub-section (4)-

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

xxx xxx xxx'16. Affiliation body to grant affiliation after recognition or permission by the council.--Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day :--

(a) grant affiliation, whether provisional or otherwise, to any institution; or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognized institution.

Unless the institution concerned has obtained recognition from the Regional Committee concerned under Section 14 or permission for a course or training under Section 15.'

17. In exercise of power, conferred by Clause (d)(i) of Sub-section (2) of Section 32 read with Section 12(d) of the Act, 1993, the NCTE framed Regulation, known as 'National Council for Teachers Education (Determination of Minimum qualifications for Recruitment of Teachers in School) Regulations, 2001' (hereinafter to be referred as 'Regulation, 2001'), published in the Gazette of India vide Notification No. 238 of September 4, 2001, whereunder, qualification for recruitment of teachers in Educational Institutions was laid down, relevant portion of which is quoted hereunder :

First Schedule to the National Council for Teacher Education (Determination of Qualifications for Recruitment of Teachers) Regulations 2001

LEVELMINIMUM ACADEMIC AND PROFESSIONAL QUALIFICATIONS

1. Elementary. Senior Secondary School certificate or Intermediate or its equivalent; and

a. Primary.ii. Diploma or certificate in basic teachers' training of a duration of not less than two years.

OR Bachelor of Elementary Education (B.El.Ed.) i. Senior Secondary School certificate or Intermediate or its equivalent; and

ii. Diploma or certificate in elementary teachers training of a duration of not less than two years.

ORb. Upper Primary (Middle School Section) Bachelor of elementary Education (B.El.Ed.). OR Graduate with Bachelor of Education (B.Ed.) or its equivalent.

Note ; 1. For appointment of teachers for primary classes, basic teachers' training programme of 2 year's duration is required. B.Ed, is not a substitute for basic teachers' training programme.

2. Some of the States are having basic teachers' training courses of one year duration only, while in some other States students passing secondary level examination are admitted to primary level teacher training courses. Such States may, by 2005, conduct basic teacher's training programmes of a duration of not less than two years with admission being open to Senior Secondary/Intermediate pass candidates. In the meantime, candidates who have undergone basic teacher's training courses of one year duration or were admitted to such training programmes after passing secondary level examination only may be given employment in' the concerned States only.

18. The State of Bihar was reorganized and two successor States, namely. State of Bihar and State of Jharkhand came into effect since 15th November, 2000. After re-organization, the State of Jharkhand issued a rule, known as 'Jharkhand Primary School Recruitment Rules, 2002', which came into effect from 1st July, 2002. Passing of Teachers Training Course/Degree/ Diploma/Two years Teachers Training Course was made mandatory for appointment as Primary teacher under Rule 2(kha), as amended by Jharkhand Primary School Amended Recruitment

Rules, 2003, English version of which reads as follows :

'2. Definitions--

xx xx xx(kha) 'Trained' means those persons who have got and passed the following training from a recognized Training Institution

(i) Two years Teachers Training, or

(ii) B.Ed. Dip.in Ed. Dip.in Teach.

19. However, in special circumstances i.e. in absence of requisite number of trained candidates, provision was also made to appoint untrained candidates as Primary Teachers under Proviso to Rule 4, English version of which is as follows :

'4. Applications shall be invited by the Jharkhand Public Service Commission through publication in newspapers on the basis of district wise vacancies, from the following qualifying candidates :

(ka) who is citizen of India,

(kha) who has passed the matric or equivalent Examination, (ga) Who has got the training, as mentioned in Rule 2(kha).

However, in special circumstance, examination will be held separately for untrained candidates and the successful candidates will be appointed on the posts of teachers only after passing the Training Examination. Those untrained candidates will get only stipend, which will be equal to first payment of Matric Untrained Scale. Training will be managed by the State Government. After training, appointment of successful candidates will be made by the State Government only for three years in Matric Trained Scale on the basis of sambida (year of passing)'.

20. In the original Jharkhand Primary Teachers Recruitment Rules, 2002, minimum qualification of 'matriculation or equivalent' was prescribed under Rule 4(kha). The vires -of the aforesaid Rule 4(kha) was challenged before this Court by one 'Satya Narayan Pandey and Ors., W.P. (5) No. 5170 of 2002,' which was

heard along with another case, namely, 'Citizen Cause, Ranchi v. State of Jharkhand and Ors., WP (C) No. 6135 of 2002'. A Division Bench of this Court, having noticed the provisions of law and different decisions, rendered by the Supreme Court, including the case of T.M.A. Pai Foundation and Ors. v. State of Karnataka and Ors., reported in JT 2002 (9) SC 1, held Rule 4(kha) against the public interest and struck down the said provision, leaving it open for the State to suitably recast the Rules in public interest, as per the observations of the Court.

21. In terms of the Court's observations, standard of Examination was raised by the State from Matriculation to Graduation, on the basis of which written examination was conducted.

22. The first contention, urged on behalf of the appellants, was that the recognition of the institutes by the IMCTE, prior to 1st July, 1995 was not required, NCTE Act, 1993 having come into effect from 1st July, 1995. The next submission on their behalf was that the institutions, situated within the State of West Bengal, being recognized by the State of West Bengal and the then State of Bihar having earlier appointed the candidates, who have completed Teachers Training Course from the institutions, situated within the territory of State of West Bengal, should be accepted as recognized institutes.

23. Learned counsel for some of the appellants also contended that the candidates, who have completed Teachers Training Course and have been granted Degrees/Diplomas/Certificates by any of the Universities, those Universities being recognized by the University Grant Commission, can not be deprived of their appointments.

24. At one stage, Mr. Gopal Sub-ramanyam, learned Sr. Advocate, based his argument on what he called, the intention of this Court, in raising the written test standard from Matriculation to Graduation level, expressed in the judgment, passed in the case of 'Satya Narayan Pandey and Ors.', (supra). It was submitted that the State of Jharkhand, having upgraded the standard of a competitive examination from Matric standard to Graduate standard, as per the Court's order, intended to appoint even untrained teachers and thereafter to send them for in-service training as prescribed under proviso to Rule 4(ga), wherein, provision was

also made to appoint untrained teachers in special circumstance. It was submitted that the Order prohibiting appointment of any untrained teacher, as has been made by the Secretary, Primary and Secondary Education, Human Resources Development Department, Government of Jharkhand, Ranchi, vide Letter No. 2912 dated 13th November, 2003 and Letter No. 8/B-1-423/03-404 dated 16th February, 2004 is contrary to the proviso to Rule 4(ga) and are ultra vires.

25. Counsel for the appellants placed reliance on a number of decisions and orders, passed by one or other Court, including Patna High Court, Jharkhand High Court and the Supreme Court, as discussed hereunder.

26. In the case of 'Sri Mahendra Prasad Mehta v. District Superintendent of Education, Katihar and Anr., as reported in 1985 PLJR 709', Patna High Court noticed that the said petitioner had passed Basic Training Examination from a college of West Bengal, known as 'Kalingpong College, West Bengal'. He had obtained one year Teachers Training Degree. The State of Bihar took plea that the requirement was that of two years Teachers Training Course. A Division Bench of Patna High Court having noticed that the petitioner had already been recommended for appointment and there was a favourable recommendation, made by the District Superintendent of Education, directed the respondents to consider the case of the said petitioner for appointment, if he had fulfilled the requirement and was otherwise entitled to appointment. In the said case, the main issue i.e. whether the Training Institute was recognized or not was neither decided nor the meaning of the expression was answered. Even no finding was given whether the said writ petitioner fulfilled the requisite qualification and was otherwise eligible for appointment, which was left open for the respondents to decide.

27. Another case of Arjun Kumar Mandal and Ors. v. State of Bihar and Ors., C.W.J.C. No. 1629 of 1988' fell for consideration before a Division Bench of Patna High Court. By judgment and Order dated 8th February, 1989 a Division Bench of the Patna High Court noticed that the petitioners of the said case after matriculation had obtained Teachers Training Certificate from an institute, located in West Bengal and were included in the panel but were not appointed. In the

counter affidavit the District Superintendent of Education took plea that the duration of training course in Bihar was of two years while in West Bengal it was only for a period of one year and therefore, the petitioners were not trained. The Court by its Order dated 8th February, 1989, following the decision of the Court, rendered in the case of 'Mahendra Prasad Mehta' (supra), directed the respondents to appoint those petitioners to the posts of Assistant Teacher. The issue 'whether the Teachers Training Institutes at West Bengal, from where those petitioners had passed, were recognized or not', was neither raised nor answered in the said case. One of the persons, namely, 'Jaba Pal', who obtained training certificate from 'Sister Nivedita College, Calcutta', filed writ petition bearing 'CWJC No. 2584 of 1992R (Jaba Pal v. State of Bihar and Ors.)'. She pleaded that she had completed her Teachers Training Course from 'Sister Nivedita Training College, Calcutta' and was entitled to be treated as trained teacher. Two Judges of Ranchi Bench of Patna High Court by Order dated 16th February, 1993 observed that if the Degree, Diploma or Certificate, granted by sister Nivedita College, Calcutta, has been recognized by the State of Bihar, as an adequate qualification for being designated as 'trained teacher', there was no reason why the said petitioner should not have the same benefit, which was extended to others. The petitioner Jaba Pal was allowed to represent the respondents, who in their turn, were directed to decide such representation. The issue i.e. whether 'Sister Nivedita College, Calcutta', is an institute, recognized by the State Government, was neither determined by the High Court nor the Court referred to or noticed any instruction/guidelines, issued by the then State of Bihar, recognizing 'Sister Nivedita College, Calcutta'.

28. In the case of 'Md. Halim and Ors. v. State of Bihar and Ors., CWJC No. 8829 of 1989', a Division Bench of Patna High Court disposed of the case with a direction to the respondents to consider the case of the petitioners in the light of the direction, given in the case of Sri Mahendra Prasad Mehta' (supra) but has not decided the issue, as has been raised in the present case. One Ram Binay Kumar and others, who also obtained Teachers Training Certificates from private Teachers Training Institutions, not having been granted the benefit of training in the matter of recruitment to the post of Assistant Teachers in Elementary/Primary Schools in the State of Bihar, moved up to the Supreme Court. The Supreme

Court in SLP (C) No. 23187 of 1996 by its Order dated 5th September, 1997 having noticed the advertisement dated 8th October, 1991 and the fact that although selection for appointment to the post of Assistant Teacher was made in August, 1994, no step had been taken by the State Government for imparting training to the untrained teachers, directed the State Government to take immediate steps to finalize the syllabus of training course and to complete the training of untrained teachers. The issue, as raised in these appeals/writ petition, i.e. 'whether the institutes, in question, situated at Kolkata, West Bengal, are recognized or not', was neither raised nor determined, by the Supreme Court in aforesaid cases.

29. To understand and appreciate the binding effect of a decision, it is necessary to notice the facts of each case on which decisions have been given and the points of law has been decided. One is also supposed to notice the law, applicable at the time when the judgment was rendered by the Court of law and then to compare with the existing law. In the case of 'Union of India v. Dhanwanti Devi and Ors., reported in (1996) 6 SCC 44', the Supreme Court held as follows :

'A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein.'

Their Lordships further observed as under :

'Therefore, in Order to understand and appreciate the binding force of a decision it is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute. A word or a Clause or a sentence in the judgment can not

be regarded as a full exposition of law. Law cannot afford to be static and therefore, Judges are to employ an intelligent technique in the use of precedents.'

30. Therefore, the appellants/petitioners cannot derive any advantage of one or other order, either passed by the Patna High Court or by the Jharkhand High Court or the Supreme Court, as referred to and discussed above in cases having different facts and circumstances.

31. To determine the issue, it is also necessary to look into the dictionary meaning of the word 'recognized'. As per Chambers Dictionary, New Edition (2000), it is 'to know again'; 'to identify as known'; 'to acknowledge the validity of a claim'; 'to acknowledge the status'. The meaning of 'recognition' is also 'acknowledgement of status'.

32. It is settled law that when the language of statute is clear, literal construction must be, adhered to. In case of any ambiguity, one can take help of the intention of the Legislatures. The definition of 'recognized institute' has not been laid down under Rules, 2002. In the aforesaid background, I have noticed and discussed the circulars, issued by the then State of Bihar to find out the intention of the Legislatures in the matter of appointment of Primary Teachers. It has already been noticed that the unified State of Bihar was against the mushroom growth of private Teachers Training Education Institutes, which were being opened without fulfilling the minimum requisite criteria and were not under the control of any Statutory Body/University / Board. In these background, Ordinance was promulgated as back as In the year, 1980 known as Bihar Ordinance No. 40, 1980, followed by non-Government Primary Teachers Education College (Control and Regulation) Act, 1981. By Letter No. 10/M-8-018-86-Part 5-Edn. Dated 12th May, 1987, issued by the Government of Bihar, while It was Informed that the State Government has opened Teachers Training Institutes, it was also Intimated that the policy of the Government was not to encourage the private Teachers Training Colleges/Institutes, which were enrolling large number of candidates as their students without holding any competitive examination and without following any procedure, which is also evident from Memo No. 10/Ba 3-56/80/116, Patna dated 6th March, 1991, issued from the Human Resources Development Department,

Government of Bihar, Patna. Unplanned growth of private Teachers Training Institutions without having any standard of education was noticed by the Central Government and in that background, N.C.T.E. Act, 1993 was brought about.

33. Therefore, on a proper construction of expression 'Recognized Training Institute' (Manyata Prapt Prakshikshan Sansthan), as occurring in Rule 2(kha) of Rules, 2002, I hold that the expression 'Recognized Training Institute' means a Training Institute, recognized or established either by State Government or Union of India or Statutory Bodies, such as, N.C.T.E., U.G.C, etc./Organizations, maintained and controlled by either State Government or Central Government or a Training Institute, recognized or affiliated by a University or a Board for imparting Teachers Training Course.

34. The National Council for Teachers Education (Determination of Qualification for Recruitment of Teachers) Regulation, 2001 came into force on September 4, 2001 and since then Degree/Diploma or Certificate in Basic Training for two years. Bachelor of Elementary Education has been prescribed as mandatory qualification for appointment of teachers in Primary Schools. No untrained person can be appointed, as any such appointment would offend the provisions of N.C.T.E. Act, 1993 and Regulation, 2001, framed thereunder. Further, when trained successful candidates are available, the question of exercising power of relaxation under proviso to Rule 4(ga) for appointment of untrained teachers in Primary Schools does not arise. Therefore, the aforesaid submission, as made on behalf of the appellants for relaxation of qualification and appointment of untrained teachers, cannot be accepted.

35. In the facts and circumstances, having regard to the guidelines, issued by the State from time to time, and the provisions of the Ordinance, Acts and Rules, as discussed above, in my considered opinion :

(a) 'Recognized Institute' means an institution recognized or established by State Government or Union Government or by Statutory Bodies/Organizations, maintained and controlled by either State Government or Central Government or recognized University or affiliated by a recognized University for imparting education (training herein);

(b) After 1st July, 1995 or at best for another period of six months i.e. after 1st January, 1996 nobody, offering a course or training in Teachers Education, can run the institute without prior recognition by the N.C.T.E., there being bar to run such institute under subsection (1) to Section 14 of the N.C.T.E. Act, 1993;

(c) Even if a Teachers Training Institute is affiliated to a University, recognized by the University Grant Commission, no Teachers Training Examination can be held by the University whether provisional or otherwise, for the students of such Teachers Training College after 1st January, 1996, if the institute is not recognized by the N.C.T.E., in view of Clause (b) to Section 16 of the N.C.T.E. Act, 1993;

(d) A person, who has completed and obtained a Degree/Diploma/Certificate in Teachers Training Course prior to 31st January, 1996, i.e. six months after promulgation of the N.C.T.E. Act, 1993 from an institute, recognized or established by the State Government or Union Government or by Statutory Bodies/Organizations, maintained and controlled by either State Government or Central Government or recognized University or affiliated by a recognized University for imparting Teachers Training Education, is eligible for appointment to the post of Primary Teacher, if otherwise found fit; and

(e) Since 4th September, 2001 i.e. the date N.C.T.E. (Determination of Qualification and Recruitment of Teachers) Regulation, 2001 came into force, no untrained person can be appointed to the post of Primary Teacher.

Institutes, situated at Kolkata (West Bengal) :

36. The appellants of LPA Nos. 246 of 2004, 301 of 2004, 271 of 2004, 308 of 2004, 445 of 2004, 236 of 2004, 269 of 2004, 235 of 2004, 548 of 2004, 518 of 2004, 300 of 2004, 289 of 2004 and 273 of 2004 claim to have passed 'Sr. Teachers Training Course' from different institutions, located at Kolkata, namely,

(i) Sister Nivedita College, Kolkata.

(ii) Oxford College of Education, Kolkata.

(iii) Devid, Hare College of Correspondence, Kolkata.

(iv) Dr. B.C. Roy College of Education, Kolkata.

(v) D.C. College & D.C. Engineering College, Kolkata.

(vi) St. Thomas College of Correspondence, Kolkata.

(vii) All India Education Society, Kolkata.

(viii) All India Correspondence Coaching Society, Kolkata, and

(ix) Montessary Teachers Training College, Kolkata.

37. Most of the aforesaid colleges claim to be affiliated to one All India Education Society, Kolkata ('AIES' for short), which itself claim to be Training Institute and a society, registered under the Societies Registration Act.

38. Immediately after examination, at the time of recommendation of successful candidates, the J.P.S.C. doubted the genuineness of Training Certificates, submitted by a number of candidates, including the appellants whose results were kept pending, which was informed by the In-charge Secretary, J.P.S.C., vide Letter No. 1 /Exam.-JPSC-99/2003- 132/Sa. Ko. dated 13th November, 2003. In view of the aforesaid doubt, the Secretary, Primary, Secondary and Higher Education, Government of Jharkhand, issued clarifications vide Letter No. 8/BM99/03-2912 dated 13th November, 2003, Letter No. 8/B1-199/03-3139 dated 4th September, 2003 and Letter No. 8/B-1-423/03/03-404 dated 16th February, 2004.

39. In these cases, though no specific stand has been taken by the parties, relating to genuineness of one or other Institution, situated at Kolkata, West Bengal, with a curiosity, to find out the status of the Institutes, I have gone through the certificates, as enclosed by the appellants with their writ petitions/memo of appeals, issued by one or other Institutions. On bare perusal of those certificates, the following facts emerged :

(i) Formate of all the certificates, granted by the Institutions, such as, (1) Sister Nivedita College, Kolkata; (2) Oxford College of Education, Kolkata; (3) Devid Hare College of Correspondence, Kolkata; (4) Dr. B.C. Roy College of Education, Kolkata; (5) D.C. College and D.C. Engineering College, Kolkata; (6) St. Thomas

College, Kolkata; (7) All India Education Society, Kolkata; (8) All India Correspondence Coaching Society, Kolkata and (9) Montassry Teachers Training College, Kolkata, are same.

(ii) The signature of Principal(s) of almost all the Training Institutes, as aforesaid, is same. That means one person has signed as Principal of almost all the aforesaid nine Institutions, situated at Kolkata, West Bengal.

(iii) The signature of Examiner, as is appearing in the certificates, granted by 4 to 5 Institutions, is also common.

(iv) Even the address of some of the Institutions are common; for example-the addresses of Sister Nivedita College, Kolkata, All India Correspondence Society, Kolkata and Dr. B.C. Roy College of Education, Kolkata, are same i.e. '740 and 741 Lake Town, Block A, Kolkata- 700089 (see enclosure, attached to W.P.(S) No. 1294 of 2004, L.P.A. No. 246 of 2004, L.P.A. No. 269 of 2004, L.P.A. No. 548 of 2004 and L.P.A. No. 300 of 2004).

The addresses of All India Education Society, Kolkata, Devid Hare College of Correspondence, Kolkata are also same i.e. 736, Lake Town, Block A, Kolkata.

(v) From Circular No. 041 dated 1st October, 2002 (page 64 of Paper book in L.P.A. No. 236 of 2004) it appears that Dr. B.C. Roy College of Education, Kolkata, is on paper, which is stated to have been amalgamated with Oxford College of Education, Kolkata. Therefore, notice has been given for general information that the candidate, who gets himself/herself admitted at Dr. B.C. Roy College of Education on or after 10.10.2002, his/her name will be transferred and enrolled at Oxford College of Education, Kolkata but marksheet and other certificates will be issued under the name and style of Dr. B.C. Roy College of Education, Kolkata.

(vi) From the Senior Teachers Training Course Certificate granted by Devid Hare College of Correspondence, Kolkata, as enclosed with L.P.A. No. 236 of 2004, it appears that the Teachers Training Course was for a period of six months. If the particulars of one of the students, namely, Anand Gopal (page 92 of L.P.A. No.

236 of 2004) are considered, it will appear that the date of admission, as has been shown, is 30th January, 1995 and the date of examination, as has been shown, is 25th August, 1995 i.e. after 6 to 7 months of admission. At column-11 with regard to affiliation of the Institution, it is mentioned that the institute is independent, having no tie up with the NCTE.

40. The aforesaid facts clearly raise doubt with regard to Sr. Teachers Training Course Certificate, granted by the aforesaid nine Institutions, as referred to above, situated at Kolkata, West Bengal, and there being nothing on the record to suggest that any of the institutions is either recognized by any of the State Governments, such as, State of West Bengal or State of Bihar or State of Jharkhand or Central Government or Statutory Body/Institution or affiliated with any University, those, who have obtained such certificates of Sr. Teachers Training Course can not claim their appointment In terms of Recruitment Rules, 2002, read with Teachers Training qualification, as laid down in the advertisement, published by the J.P.S.C. in August, 2002.

41. Further, the course of Sr. Teachers Training being of 6 to 7 months duration, it can not be called equivalent to B.Ed./ Dip.in Ed./Dip in Teach or the other training certificate, as prescribed under Rule 2(kha) of Rules, 2002.

42. In view of the aforesaid findings, the appellants of L.P.A. Nos. 246 of 2004, 301 of 2004, 271 of 2004, 308 of 2004. 236 of 2004, 269 of 2004, 235 of 2004, 548 of 2004, 518 of 2004, 300 of 2004, 289 of 2004 and 273 of 2004, having obtained training certificates from the aforesaid nine institutions, situated at Kolkata, West Bengal, can not be granted the relief, prayed for by them.

Institutions, situated in the State of Uttar Pradesh :

43. Some of the appellants/petitioners have submitted certificates, obtained from, the following Institutions, situated with the State of Uttar Pradesh ;

(i) Hindi Sahitya Sammelan, Prayag, Allahabad;

(ii) Jamia Urdu, Aligarh;

(iii) Gandhi Hindi Vidyapith, Prayag, Allahabad;

(iv) Rashtriya Pratrachar Sansthan, Kanpur.

(A) Hindi Sahitya Sammelan, Prayag, Allahabad

Appellants of L.P.A. Nos. 306 of 2004, 382 of 2004, and 298 of 2004 have passed 'Sahiksha Bisharad' Examination from Hindi Sahitya Sammelan, Prayag, Allahabad. According to them, Hindi Sahitya Sammelan, Prayag, Allahabad is a University and the qualification of 'Shiksha Visharad' is equivalent to B.Ed. /Trained Graduate. Their counsel has relied on different orders, issued by the State Government from time to time in their support, as discussed hereunder :

Hindi Sahitya Sammelan is an institute of National importance, established under 'The Hindi Sahitya, Sammelan Act, 1962' (hereinafter to be referred as the Act, 1962'). It has been constituted to perform the functions, as envisaged under Section 6 of the Act, 1962, such as :

(i) To promote the spread of Hindi language;

(ii) To work for the promotion, advancement and development of Hindi literature in India and foreign countries;

(iii) To work for promotion, development and advancement of Devnagari script;

(iv) To arrange for holding the examination through the medium of Hindi language and to confer degrees/ diplomas and other academic distinctions;

(v) To establish and maintain schools, colleges and other institutions for instruction in Hindi language and Hindi literature and also to affiliate schools, colleges and other institutions for its examinations;

(vi) To affiliate institutions, having their object 'the promotion of Hindi language and Hindi literature';

(vii) To award honorary Degrees and other academic distinctions to persons, who may have rendered distinguished services to the course of Hindi etc.

Government of India from its Ministry of Human Affairs, New Delhi, issued Notification No. P26/4/52 C.C. (Annexure-1/1 to LPA No. 298 of 2004), giving reference to an earlier Notification No. 26/4/52 CC dated 20th September, 1952, issued in consultation with the Union Public Service Commission informed the public in general that in case of degree/diploma, awarded by the Universities in India, which are incorporated by one Act of Central or Part A or Part B State Legislation of India, no formal order, recognizing such degrees/diplomas need be issued by the Governments. Such degree should be recognized automatically, for the purposes of employment.

A list of Universities and other comparable Institutions of Higher Education was issued, wherein, the name of 'Hindi Sahitya Sammelan, Prayag, Allahabad (U.P.)' has been shown at serial No. 2 of the list of 'Universities' and as one of the Institutions of National importance.

In view of the aforesaid provisions and other provisions, made under the Hindi Sahitya Sammelan Act, 1962, there can not be any doubt that 'Hindi Sahitya Sammelan, Prayag, Allahabad' is a Statutory Body, a University of National importance.

In the present case, the only question arises 'whether the decree/certificate of 'Shiksha Visharad' is equivalent to B.Ed, or any other Teachers Training course, as prescribed under Rule 2(kha) of Rules, 2002.

From Letter No. BHI/VI/100-94/ 36224 dated 3rd September, 1994, issued from the Director of Secondary Education (Orissa), Bhubaneswar, it appears that the Diplomas/Degrees, awarded by 'Kendriya

Hindi Sansthan, Agra' and 'Hindi Sahitya Sammelan, Allahabad' were approved as equivalent for the purposes of employment In Orissa Government Service, as quoted hereunder :

(A)Examination of Kendriya Hindi Sansthan, AsiaEquivalent to (i)Hindi Shiksha PraveenTeachers Training Certificate; Diploma. (ii)Hindi Shiksha NishantM.Ed, degree of an Indian University. (iii)Hindi Shiksha ParangatB.T./B.Ed. degree from

an Indian University(B)Examination of Hindi Sahitya Sammelan, AllahabadEquivalent to (i)PrathamaH.S.E. (ii)Madhyamal. A. (iii)Sahitya RatnaB.A. (iv)Shiksha VisharadB.T.C./C.T.

From the letter aforesaid, it appears that the Government of Orissa while treated 'Hindi Shiksha Parangat¹ equivalent to B.T./B.Ed. degree and 'Hindi Shiksha Praveen' equivalent to Teachers Training Certificate, 'Shiksha Visharad¹ Certificate granted by the 'Hindi Sahitya Sammelan, Allahabad¹, has not been treated equivalent to B.T./B.Ed. degree rather equivalent to B.T.C./C.T.,, which is not the qualification, laid down under Rule 2(khs) of Rules, 2002.

Counsel for the appellants placed reliance on a Letter No. 12/3116-17/2000-152 dated 29th March, 2000 issued by the Deputy Director (Secondary Education), Bihar, Patna to suggest that the Government of Bihar has also accepted the certificate of 'Shiksha Visharad', granted by Hindi Sahitya Sammelan, Allahabad, equivalent to B.Ed. In the said letter, giving reference to a query, made by the Secretary, School Examination Board, Patna, vide Letter No. 40 dated 15th January, 2000, it has been informed that the Government of Bihar by Resolution No. 394 dated 11th April, 1983 has accepted that the degrees 'Shiksha Visharad¹ and 'Shiksha Shastr¹, granted by the Hindi Sahitya Sammelan, Allahabad and Sam-purnand Sanskrit Shiksha Mahavidyalaya, Varanasi, respectively are equivalent to B.Ed, course. But on perusal of original Resolution No. 394 dated 11th April, 1993, issued from the Education Department, Government of Bihar, I find that the Deputy Director (Secondary Education), Bihar, Patna, having distorted the fact, had sent wrong Information to the Secretary, School Examination Board, Patna by the aforesaid letter dated 29th March, 2000.

The Government of Bihar through its Education Department while issued Resolution No. 394 dated 11th April, 1983, the subject was shown as 'Regarding recognition of examination, conducted by Sampurnand Sanskrit Vishwavidyalaya, Varanasi, Uttar Pradesh'. The following degrees/diplomas/certificates, issued from Sampurnand Sanskrit Vishwavidyalaya, Varanasi, Uttar Pradesh, has been treated equivalent to the degree/diploma/certificate, as mentioned against their names ;

Degree/Diploma Equivalent to

(i) Purv Madhyama Matric

(with English)

(ii) Uttar Madhyama Intermediate

(with English)

(iii) Shastri (with B.A.

English)

(iv) Acharya M.A.

Shiksha Shatter B,Ed.

The aforesaid Resolution No. 394 dated 11th April, 1983, Issued from Education Department of the Government of Bihar does not deal with any of the Degree/Diplomas, granted by or examination, conducted by the Hindi Sahitya Sammelan, Allahabad and thereby the appellants can not derive any advantage of Letter No, 152 dated 29th March, 2000.

The State of Bihar time to time issued different letters/circulars from its Education Department/Human Resources Development Department, showing equivalence of a degree/diploma/certificate, granted by different institutions. By Resolution No. VI/M7018/63E-374 dated 29th March, 1963 equivalency of various Sanskrit degrees and diplomas, awarded by the former Bihar Sanskrit Association and Kameshwar Singh Darbhanga Sanskrit Viswavidyalaya has been shown with those of the degrees and diplomas, awarded by the Bihar School Examination Board and other Universities in the State. By Order No. 6/R1-203/64/M 10275 dated 16th August, 1965 the degrees, granted after 1947 from National Universities; such as, Kashi Vidyapith, Varanasi; Gurukul Kangri; Man-dar Vidyapith, Mandar; Bhagalpur Hindi Vidyapith, Deoghar; Hindu Vishwavidyalaya, Allahabad; Prayag Mahila Vidyapith, Allahabad; Gujarat Vidyapith, Ahmadabad; Rashtrabhasha Prachar; Assam Rashtrab-hasha Prachar Samiti, Guahati; Hindi Prachar Sabha, Hyderabad; Bombay Hindi Vidyapith, Bombay; Maharashtra Bhasha Sabha, Puna; Manipur Hindi Parishad, Imphal; Akhil Bhartiya Hindi

Parishad, Agra; Maisoor Hindi Prachar Parishad, Bungalow and Dakshin Bharat Hindi Prachar Sabha, Madras were shown to be equivalent to one or other degree/diploma/certificate, as being awarded by School Examination Board and ors. Universities in the State. Similar circulars, including Letter No. 7/M 605/73 (Part 21) Edn. 4927 dated 29th September, 1974, Order No. 8/R2/203/73 Ka. 12860 dated 21st July, 1975, issued from Personnel Department, Letter No. IB 9-III/76Edn. 1926 dated 24th August. 1976 and Order. No. 8/R1- 1010/76-Ka-4236, Patna dated 11th March, 1977, issued from Personnel Department, and Memo No. 2204/Patna dated 6th May, 1988, were also issued from time to time. None of the aforesaid Circulars/Orders/Letters recognizes the examination of Shiksha Visharad, conducted by Hindi Sahitya Sammelan, Allahabad, as equivalent to B.Ed, or any other Teachers Training Degree/Diploma/ Certificate, as prescribed under Rule 2(kha) of Rules, 2002 and thereby, the appellants of L.P.A. No. 306 of 2004, 382 of 2004 and 298 of 2004 can not be held to have obtained any degree/diploma/certificate in Teachers Training, as prescribed under Rule 2(kh) of Rules, .2002 and, as such, being not eligible, can not claim appointment in pursuance of the advertisement, published by the J.P.S.C. In August, 2002. The appellants have also not made it clear as to whether the institute from where they have completed Teachers Training Course is a recognized institute and/or affiliated to Hindi Sahitya Sammelan or not. In absence of any such averment, relating to the institute from where they completed their Teachers Training Course, no finding can be given that they obtained Degree/Diploma from a recognized institute.

(B) Zamia Urdu, Aligarh

The appellants of L.P.A. No. 594 of 2004 have passed the examination of 'Moallim-E-Urdu' from an institute, known as Jamia Urdu, Aligarh. According to them. the 'Moallim-E-Urdu' is equivalent to the Urdu Teachers Training Course. They have relied on certain circulars, issued from one or other State.

The Jharkhand Public Service Commission, Ranchi, has also raised doubt with regard to the institute, in question, namely, Zamia Urdu, Aligarh. From the records, it is not clear as to whether the institute, namely, Zamia Urdu, Aligarh, is

recognized by any State Government/or Central Government or any Statutory Authority/ Body or is affiliated to any one or other University/Statutory Board. A letter of the Director of Education, Delhi, bearing No. DE-3(21) Estt. 111-85 D/796 dated 28th April, 1986, issued to the Registrar, Zamia Urdu, Aligarh, suggests that the degree of 'Moallim-E-Urdu' is considered equivalent to B.Ed, by the Director of Education, Delhi Administration, Delhi. Another Letter No. C/3-4-96/3/F, Bhopal dated 19th March, 1986, issued from the General Administrative Department of Madhya Pradesh Government suggests that 'Moallim-E-Urdu' has been treated as a qualification for teaching Urdu students up to the Secondary standard but it has not been treated equivalent to any Teachers Training Course. There is nothing on the record to suggest that the Government of Bihar or any other Government has recognized the institute, namely, Zamia Urdu, Aligarh, for the purposes of imparting Teachers Training Course.

Admittedly, the appellant Kalamat Ali Ansari has passed 'Moallim-E-Urdu' Examination from Zajnia Urdu, Aligarh, held in February, 2001 (Examination of the year, 2000). By the said date the provisions of National Council for Teachers Education Act, 1993, having come into effect (from 1st July, 1995), the appellant Kalamat Ali Ansari can not claim appointment to the post, in question, Zamia Urdu, Aligarh, not having been recognized by the National Council for Teachers Education. The appellant Kalamat Ali Ansari of L.RA. No. 594 of 2004, therefore, can not be granted the relief, as sought for,

(C) Gandhi Hindi Vidyapith, Prayag, Allahabad

The appellants of L.RA. No. 597 of 2004 claim to have passed Teachers Training Examination from Gandhi Hindi Vidyapith, Prayag, Allahabad. According to them, it is equivalent to B.Ed, and has been recognized by the Government of Bihar vide Letter No. 12/Ma-028/91-62 dated-30th January, 1993, issued from Human Resources Development Department, Patna. Though such statement has been made, copy of letter aforesaid has not been enclosed to verify the genuinity. In the compendium of Circulars/Rules/Act of Primary Teachers Le. Bihar Rajya Prarambhik Shiksha Vidhi Ebam Vidhan, published by Malhotra Brothers, Patna (2nd Edition, 2002) neither any such reference of such Letter No. 12/Ma-028/91-

62 dated 30th January, 1993, has been made nor copy of the same has been printed. However, I have some doubt relating to the aforesaid statement, made by the appellants in their representation, for the following reasons : It came to the notice of the University Grant Commission that a number of fake Universities and Institutions have been* opened, which are awarding degrees/ diplomas/other certificates. A list of fake Universities, as on May 1, 2000 was published by the University Grant Commission, which was also circulated by the Secretary, Human Resources Development Department (Primary Education), Government of Jharkhand, Ranchi vide Memo No. 3477/ Ranch! dated 30th December, 2003 (Annexure-5 to W.P.S. No. 4298 of 2004). At serial No. 6 of the list of fake Universities, the Institution, in question, i.e. 'Gandhi Hindi Vidyapith, Prayag, Allahabad' (U.P.) has been shown and declared to be a fake University Jay the University Grant Commission. That apart, there is nothing on the record to suggest that so called Teachers Training Examination, passed by the appellants of L.R.A. No. 597 of 2004 is equivalent to B.Ed, degree, as prescribed under Rule 2(kha) of Rules, 2002. Therefore, the appellants of L.P.A. No. 597 of 2004 can not be given appointment in pursuance to the advertisement, published by the J.P.S.C. in August, 2002, they not being qualified.

(D) Rashtriya Patrachar Sansthan, Kanpur

Both the petitioners of W.P. (S) No. 4298 of 2004 claim to have passed 'Shiksha Alankar from 'Rashtriya Patrachar Sansthan, Kanpur in May. 1994 and May, 1991 respectively. They have enclosed the copies of the marksheet as Annexures-6 and 6/1. According to them, the qualification 'Shiksha Alankar' is equivalent to 'Bachelor of Education' (B.Ed.), as shown and printed in their marksheets. However, no pleading has been made that the Institution, in question, namely, 'Rashtriya Patrachar Sansthan, Kanpur has been recognized by either any Statutory Body, such as, University or Board or by any Government. Counsel for the petitioners has relied, on a copy of the order, passed by Lucknow Bench of Allahabad High Court In W.P. No. 5496 (S) of 2003, (Ram Pyare Pankaj and Ors. v. State of U.P. and Ors.) to show that the degree/diploma, awarded by Rashtriya Patrachar Sansthan, Kanpur, has been recognized by the Government of U.P. vide letter dated 6th September, 2000, as also by the Director of Samaj Kalyan,

Government of U.P. by letter dated 25th June, 2002. The orders were issued in pursuance of the order, passed in another Writ Petition No. 1208 (S) of 1995.

Even if such stand taken by the petitioner is accepted, the petitioners cannot derive any advantage of the same, they having passed 'Shiksha atari/certificate' from 'Rashtriya Patrachar Sansthan, Kanpur' in May, 1994 and May, 1991 respectively. When the Institution i.e. 'Rashtriya Patrachar Sansthan, Kanpur' was not recognized by the Government of U.P. Further, N.C.T.E. Act, 1993 having come into effect from 1st July, 1995, it was not open to the Government of U.P. to recognize any Training Institute in the year, 2000/2001, without prior permission of the National Council for Teachers Education. Therefore, though the Degree/Diploma, awarded by 'Rashtriya Patrachar Sansthan, Kanpur', can be recognized as a Degree/Diploma of any academic distinction, it can not be recognized as a Degree/Diploma of Teachers Training Course.

Admittedly, the Government of Bihar and the Government of Jharkhand have neither recognized 'Rashtriya Patrachar Sansthan, Kanpur' nor it has been recognized by the National Council for Teachers Education. Therefore, no relief can be granted to them.

44. Training Colleges/Institutions, situated in the States of Bihar & Jharkhand

(a) Kameshwar Singh Darbhanga Sanskrit University, Darbhanga

Eight appellants of L.P.A. No. 322 of 2004 have passed 'Acharya Examination' from 'Kameshwar Singh Darbhanga Sanskrit University, Darbhanga', According to them, the Degree of 'Acharya' is equivalent to 'B.Ed, Degree', Counsel for the appellants has relied on different circulars, issued from time to time by the then unified State of Bihar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, was Initially constituted under 'Kameshwar Singh Darbhanga Sanskrit Vishvidyalaya Act, 1960 (Bihar Act 6 of 1960)'. Subsequently, 'Bihar State Universities Act, 1976' covered almost all the Universities, situated within the territory of the State of Bihar, except Patna University, Rajendra Agriculture University and Birsa Agriculture University, for which separate Acts were passed. Under Section 3 of the 'Bihar State Universities Act, 1976, 'the establishment and

incorporation of the Universities' within the territory of the then State of Bihar have been shown, which includes 'Kameshwar Singh Darbhanga Sanskrit University', having the headquarters at Darbhanga and the Jurisdiction over whole of the then State of Bihar, including the successor State of Bihar and Jharkhand. Therefore, there should not be any dispute, relating to recognition of any Degree/Diploma/Certificate, granted by Kameshwar Stngh Darbhanga Sanskrit Universityt Darbhanga', The only question arises 'whether the Sanskrit degree 'Acharya1 is 'equivalent to 'B.Ed.1 or any other Teachers Training Course', as prescribed under Rule 2(kha) of Rules, 2002'.

The respondent State of Jharkhand has taken plea that the Sanskrit Degree of 'Acharya' is equivalent to 'M.A.' in Sanskrit for the purposes of appointment of Sanskrit Teacher. However, according to the appellants, It Is a degree in Teachers Training Course.

For determination of the issue, one should notice the decision of the Government of Bihar, as was circulated vide Resolution No. VI/M7018/63E-374 dated 29th March, 1963, issued from Education Department, Government of Bihar. While considered the question of equivalence of various Sanskrit Degrees and Diplomas, awarded by the former 'Bihar Sanskrit Association' and 'Kameshwar Singh Darbhanga Sanskrit University, Darbhanga' with those of Degrees and Diplomas, awarded by the Bihar School Examination Board and ors. Universities In the State of Bihar, after careful consideration of the matter, it will appear that the State of Bihar, in consultation with the Public Service Commission, Bihar, had been pleased to decide the equivalence of various Sanskrit degrees, as'detailed below :

(a) For the purpose of appointment to the Public Service,

Names of Sanskrit degrees, diplomas and certificates.Name of degrees and diplomas of which deemed equivalent

For Sanskrit teaching and Inspection of Sanskrit Institutions onlyFor other appointments

NAVIN SYSTEM Prathma (ii) Middle Middle Uttar Madhyama (II) (without English) Matriculation or S.S. Examination Under Matric Uttar Madhyama (II) (with English) Matriculation or S.S. Examination. Pre-University or Higher Secondary, Shastri (with English) B.A. LA. or B.A. (Part 1) Acharya (without English at Sastri Stage) M.A. (Sanskrit) LA. or B.A. (Part 1) Acharya (with English at Shastri stage) M.A. Sanskrit B.A. PRACHIN SYSTEM

Name of Sanskrit degrees, Diplomas and certificates, Name of Degrees and diplomas of which Deemed equivalent.

For Sanskrit teaching and Inspection of Sanskrit Institutions only For other appointments.

Prathma Middle Middle Madhyama Matriculation or S.S. Examination. Under Matriculate Shastri LA, or B.A, (Part 1) Matriculation or S.S. Examination. Acharya B.A. (Hons) Sanskrit LA. Acharya (with pass In English or NavIn Shastri or equivalent standard) M.A. (Sanskrit) B.A.

It was reiterated by the letter, issued by the Director, Primary Education-curn-Joint Secretary, Education Department, Government of Bihar, vide Letter No. 7/ M605/73 (Part-21) Edn. 4927 dated 25th September, 1974 [Reference of Resolution No, VI/M7018/63E.-374 dated 29th March, 1963 and Lettdr No. 7/M 605/73 (Part-21) Edn. 4927 dated 25th September, 1974 has been taken from page Nos. 922 and 931 of the Bihar Rajya Prarambhik Shiksha Vidhi Eban Vidhan, published by Malhotra Brothers, Patna (2nd Edition, 2002)].

From the decision aforesaid, it is clear that the degree of 'Acharya' can at best be treated as 'M.A.' Degree in Sanskrit or 'B.A.' for appointment of Sanskrit Teacher, but It can not be treated to be a Degree in Teachers Training Course¹ for the purposes of Rule 2(kha) of Rules, 2002.

Counsel for the appellants relied on different Resolutions/Circulars, issued by the State of Bihar. Reliance was also placed on Resolution dated 24th October, 1982, whereby it was Informed that the Degree. 'Acharya' [Sahitya (Literature or Vyakaran/ Gramer) or Fazil Arbi or Farsi] are also qualifications for appointment

of Primary Teachers. In the Note below the direction, it was mentioned that a candidate, who has obtained Acharya/Fazil from a recognized University of Government recognized Board or Government Training Institute will be given preference. But this resolution can not be relied upon for determination of the issue of equivalence i.e, 'whether the degree 'Acharya' is equivalent to Teachers Training Degree/B.Ed.' or not'. The other letter No. 6066 dated 24th November, 1986, issued by the Director (Secondary Education)-cum- Joint Secretary, Education Department, Government of Bihar, Patna, relates to grant of Selection Grade Scale to the teachers. By the said letter, it was informed that the State Government has placed the teachers, holding 'Acharya1/ Faztt Degree in the category of Trained Teachers for the purposes of seniority and grant, of scale of pay but that does not mean that the Government of Bihar has treated 'Acharya' or 'Faztl Degree equivalent to a degree in 'Teachers Training Course/B.Ed.'. Resolution No. II/P1-05/68E-1439 dated 4th May, 1968 and Resolution No. 2/B-90319/73/Edn.-237 dated 20th January, 1976 both issued from the Education Department, Government of Bihar, relate to grant of scale of pay. If the teachers, holding qualification of 'Acharya' or 'Fazil' have been allowed the scale of pay, as is allowed to the Trained Teachers that does not mean that the degree of 'Acharya1 or 'Ftaztf has been treated equivalent to 'Teachers Training Course/B.Ed. Degree',

Thus, the appellants of L.P.A. No. 322 of 2004 can not be treated to be holding any Teachers Training Degree/Diploma nor their degree of 'Acharya' Can be treated to be equivalent to the Degree of B.Ed, and thereby they can not be granted any relief for appointment in question.

(b) Laxmi Devi Sarraf Adarsh Sanskrit Mahavidyalaya, Deoghar These three appellants of L.P.A. No. 344 of 2002 claim to have passed 'Acharya Examination' from 'Laxmi Devi Sarraf Adarsh Sanskrit Mahavidyalaya, Deoghaf. According to them, the Degree of 'Acharya' obtained from 'Laxmi Devi Sarraf Adarh Sanskrit Mahavtdyalaya, Deoghar', is equivalent to 'Trained Graduate/B. Ed,'.

However, there is nothing on the record to suggest that said Laxmi Devi Sarraf Adarsh Sanskrit Mahavidyalaya, Deoghar, is a college, affiliated with any

University, or is a constituent college of any University. It is not the case of the appellants that 'Laxmi Devi Sarraf Adarsh Sanskrit Mahavidyalaya, Deoghar', is a Government College or recognized by the Government of Bihar or the Central Government. Therefore, it can not be held that 'Laxmi Devi Sarraf Adarsh Sanskrit Mahavidyalaya, Deoghar', is a recognized institute for the purposes of Rule 2(kha) of Rules, 2002.

So far as degree 'Acharya' is concerned, it has already been discussed and held above that the Degree of 'Acharya' is not a Teacher Training Degree/B.Ed. Degree' and thereby It cannot be treated to be equivalent to 'Trained Graduate'. As such, no relief can be granted to the appellants of L.P.A. No. 344 of 2004.

Indira Gandhi National Open University (IGNOU), New Delhi

45. These three appellants of L.RA. No. 240 of 2004 have passed 'Certificate in Guidance' (C.I.G.) from 'Indira Gandhi National Open University, New Delhi ('IGNOU' for short). According to them, the 'Certificate of Guidance' is equivalent to 'Dip.in Ed./Dip.in Teach'. The appellants have enclosed the relevant portion of IGNOU prospectus for admission in 'Certificate in Guidance', which reads as follows :

SCHEMATA OF C.I.G.

1. LIST OF COURSES OFFERED

ES 101 : UNDERSTANDING THE ELEMENTARY SCHOOL CHILD

ES 102 : FACILITATING GROWTH AND DEVELOPMENT

ES 103 : GUIDING CHILDREN'S LEARNING

ES 104 : GUIDING SOCIO-EMOTIONAL DEVELOPMENT OF CHILDREN

2' TO QUALIFY FOR CIG, A STUDENT SHOULD HAVE SUCCESSFULLY COMPLETED ALL THE FOUR COURSES.

3. RESULT IS DECLARED IN BETTER GRADES ON A FIVE POINT SCALE.

4. LETTER GRADE AND GRADE POINTS FOR PURPOSES OF COMPUTATIONS ARE AS UNDER :

LETTER GRADE GRADEPOINT A-EXCELLENT 5B-VERY GOOD 4C-GOOD 3D-SATISFACTORY 2E-UNSATISFACTORY 1 5. FOR COURSE GRADING PURPOSE, 30% WEIGHTAGE IS GIVEN TO CONTINUOUS EVALUATION AND 70% TO THE TERM-END EXAMINATION.

6. ON THE BASIS OF AVERAGE GRADE POINT SECURED, THE FINAL GRADE IS AWARDED ACCORDING TO THE FOLLOWING RANGE ;

AVERAGE GRADE GRADEPOINT RANGE 4.50 & ABOVE A 3.50-4.49 B 2.50-3.49 C 1.50-2.49 D 0-1.49 E 7. IN ORDER TO SUCCESSFULLY COMPLETE A COURSE THE CANDIDATE MUST OBTAIN AT LEAST GRADE 'D' IN EACH OF THE CONTINUOUS EVALUATION AND IN THE TERM-END EXAMINATION. HOWEVER, OVERALL AVERAGE GRADE OF CONTINUOUS EVALUATION AND TERM END EXAMINATION SHOULD BE AT LEAST 40%.

From the aforesaid prospectus, it is clear that the 'Certificate in Guidance' is not a Degree, equivalent to 'Trained Graduate or B.Ed. Degree'. It has already been noticed that Teachers Training, such as, 'Two Years Primary Teachers Training or B.Ed, or Dip.in Ed.' from recognized 'Training Colleges/institutes' has been prescribed under Rule 2(kha) of Rules, 2002 for appointment of 'Primary Teachers'. The 'Certificate in Guidance', as referred to above, cannot be held to be 'Two Years Primary Teachers Training Certificate' nor can it be held equivalent to 'B.Ed. or Dip.in Ed. So far as IGNOU is concerned, it being a recognized University, the case of the appellants can not be rejected on the ground that they have not passed from a recognized institute. However, they being not qualified in terms with Rule 2(kha) of Rules, 2002, these appellants cannot be granted the relief, as sought for.

45. The Supreme Court has taken serious view in allowing the students of unrecognized institutions to appear at public examinations. In the case of State of Maharashtra v. Vikash Saheb Rao Roundley and Ors., reported in AIR 1992 SC 1926, the Supreme Court has observed as follows :

'.....In short teachers need to be endowed and energized with needed potential to serve the needs of the society. The qualitative training in the training colleges or schools would inspire and motivate them into action to the benefit of the students. For equipping such trainees students in a school or a college, all facilities and equipments are absolutely necessary and institutions bereft thereof have no place to exist nor entitled to recognition. In that behalf compliance of the statutory requirements is insisted upon. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education. The directions to the appellants to disobey the law is subversive of the Rule of law, a breeding ground for corruption and feeding source for indicipline. The High Court, therefore, committed manifest error in law, in exercising its prerogative power conferred under Article 226 of the Constitution, directing the appellants to permit the students to appear for the examination etc.'

46. Taking into consideration the facts and circumstances of the case, the statutory Rules, 2002 and the decisions, rendered by the Supreme Court, as discussed above, in my view no ground is made out to interfere with the orders, passed by the Secretary, Human Resources Development Department (Primary Education), Government of Jharkhand, Ranchi, as affirmed by the learned Single Judge or to grant any relief to the appellants/petitioners. The appellants/petitioners, having no requisite qualiflcation of Teachers Training, as per Rule 2(kh) of Rules, 2002, many of them having obtained training qualification from unrecognized institutions and one institution even found fake by the U.G.C. and the Degree/diploma/Certificate obtained in other cases are not being equivalent to Trained Graduate/ Teachers Training, no relief can be granted to any of them. There being no merit, all the appeals and the analogous writ petition are hereby dismissed. However, in the facts and circumstances, there shall be no Order as to cost.

Narendra Nath Tiwari, J.

47. I agree.