

## Rajendra Kumar Samad Vs The State of Jharkhand and Others

**Court:** Jharkhand High Court

**Date of Decision:** Aug. 1, 2013

**Hon'ble Judges:** Narendra Nath Tiwari, J

**Bench:** Single Bench

**Advocate:** Sanjay Kumar Pandey, for the Appellant;

**Final Decision:** Disposed Off

### Judgement

Narendra Nath Tiwari, J.

In I.A. no. 5144 of 2013, the petitioner has prayed for disposal of W.P.(S) No. 5177 of 2011 in terms of the

order dated 15th September, 2011 passed in W.P.(S) No. 5658 of 2009 (Om Prakash Gope Vrs. State of Jharkhand & Ors.). It has been

submitted that the facts and the issue in the instant case are almost similar to the case of Om Prakash Gope (supra) and the same may be disposed

of in terms of the order passed in the said case.

2. Learned J.C. to S.C. II, appearing on behalf of the respondents, has accepted the said position and submitted that the writ petition can be

disposed of in terms of the order passed in Om Prakash Gope (supra).

3. In the writ petition, the petitioner has prayed for a direction on the respondents to take decision regarding approval/recognition of the services of

the petitioner as Assistant Teacher in Project Girls High School, Kharsawan, as has been done in the cases of other similarly situated persons. The

petitioner has also prayed for a direction on the respondents to pay salary and other consequential benefits to the petitioner from 1st January, 1989

like other similarly situated persons.

4. It has been stated that the petitioner was appointed as Assistant Teacher by Managing Committee in the said school on 23rd May, 1984. The

petitioner, subsequently, completed teachers training from Sister Nivedita College at Kolkata in August, 1993.

5. In the year 1984-85, the Government had decided to take over 300 Project Girls" High Schools. The petitioner"s School was also taken over

in 1985.

6. For the purpose of regularization/approval of the services of the teachers and non-teaching staff of those Schools, a Three Men Committee was

constituted. The said Three Men Committee scrutinized the services of the teachers of the school for the purpose of approval, but the petitioner's

service was not approved for the reason that the petitioner got teachers training from the college, which was not recognized under the provisions of

National Council for Teachers Education Act, 1993 ("NCTE Act, 1993" for short).

7. Learned counsel for the petitioner submitted that the petitioner got his teachers training certificate in August, 1993, whereas NCTE Act, 1993

came into force from July, 1995.

8. Learned counsel for the petitioner further submitted that admittedly NCTE Act was not in existence when the petitioner had got teachers training

from Sister Nivedita College, Kolkata and there was no defect in his training certificate. He further submitted that the petitioner was duly appointed

by the Managing Committee and he has all eligibility and qualification for being appointed as Assistant Teacher in the High School. Denial of

recommendation for approval of Three Men Committee is, therefore, arbitrary and discriminatory.

9. Learned counsel submitted that services of one Om Prakash Gope was also not regularized for same reason that he had got training certificate

from the said College in 1994 i.e. Sister Nivedita College at Kolkata, which was not recognized by the NCTE.

10. Said Om Prakash Gope, being aggrieved by the denial of approval of the Three Men Committee, had filed writ petition being W.P.(S) NO.

5658 of 2009. This Court after hearing the parties at length and considering all the relevant aspects held that since the petitioner had cleared his

teachers training certificate examination on 16th March, 1994, prior to enforcement of the Act, 1993 in July, 1995, denial of the petitioner's

recommendation by Three Men Committee was arbitrary. The report was quashed and the respondents were directed to recognize the services of

the petitioner and pass necessary order to that effect. The petitioner was also held entitled for all consequential benefits including salary.

11. Learned J.C. to S.C. II, appearing on behalf of the respondents, admitted that the case of the petitioner is covered by the decision of this

Court in the case of Om Prakash Gope (supra). The petitioner has also completed his training from Sister Nivedita College, Kolkata prior to

coming into force of the said NCTE Act, 1993 and that the writ petition can be disposed of in terms of the said order.

12. Considering the said submissions and the facts and circumstances, this writ petition as well as I.A. No. 5144 of 2013 are disposed of in the

light of the order dated 15th September, 2011 passed in Om Prakash Gope (supra), quashing the refusal of petitioner's recommendation by Three

Men Committee (Annexure-9) and directing the Respondent No. 2, who is said to be the competent authority, to issue appropriate order

recognizing the services of the petitioner as Assistant Teacher in Project Girls High School, Kharsawan and pay all consequential benefits including

arrears of his salary, within six weeks from the date of receipt/production of a copy of this order. If the admitted amount/arrears is not paid within

the said period, the petitioner shall be entitled to get interest @ 10% per annum from the date the amount found payable till the date of final

payment.