

(2013) 08 JH CK 0027

Jharkhand High Court

Case No: Writ Petition (S) No. 1993 of 2013

Jeevna Nand Pani

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Aug. 12, 2013

Citation: (2013) 4 JLR 527

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Shubha Jha, for the Appellant;

Final Decision: Disposed Off

Judgement

Aparesh Kumar Singh, J.

Heard counsel for the parties. The petitioner has sought issuance of a writ of mandamus upon the Respondent No. 2 - The Principal Secretary Department of Human Resources Development, Government of Jharkhand and Respondent No. 3 - The Director (Secondary Education), Department of Human Resources, Government of Jharkhand to take a final decision with regard to the approval/regularization/recognition of the services of the petitioner as Assistant Teacher in Project Girls" High School, Kharsawan, in view of several orders passed by this Court, such as judgment dated 04th February 2013 passed in WPS No. 2048/10, judgment dated 22nd February 2012 passed in WPS No. 5161/09, judgment dated 15th September 2011 passed in WPS No. 5658/09, judgment dated 2nd July 2013 passed in WPS No. 2010/13 and judgment dated 3rd July 2013 in WPS No. 1249/13.

2. According to the petitioner, these judgments have been rendered on account of refusal of the respondents to consider the cases of persons like the petitioner for regularization on the ground that they were not having teachers training qualification at the time of their appointment in Project Girls" High School at the relevant period in 1984-85 based upon the report of the Screening Committee dated

30th September 2007 (Annexure-3) submitted in view of the judgment of the Full Bench of the Patna High Court and upheld by the Hon"ble Supreme Court.

3. Learned counsel for the petitioner submits that in all these cases referred to herein above, this Court had taken the view that the said teachers who had obtained teachers training qualification prior to the submission of the report by the Screening Committee, are entitled to be regularized in the said project Girls" High School. The case of the petitioner is that he was appointed on 6th January 1984 as an Assistant Teacher by the Managing Committee of the Project Girls" High School, Kharsawan. The petitioner obtained B.Ed degree from Sambalpur University in the year 1990 vide Annexure-2/B. It is further submitted that about 650 Project Schools were established pursuant to the decision taken in different financial years from time to time. Thereafter, 75 schools were selected and notified by the Government as Established Schools vide letter dated 27th February 1985. Thereafter, a three men committee was constituted to complete the process of selection of the remaining 225 schools. The matter went into litigation and was decided by the Full Bench of Patna High Court vide judgment dated 7th December 1999 in the case of [Project Uchchavidyalaya Siksha, Etc. Etc. Vs. State and Others Etc. Etc.](#) Reference to Para-33 of the said judgment is being made by the learned counsel for the petitioner wherein according to her, the cut-off date for possessing the minimum qualification was prescribed as being the date on which the report was submitted by the Screening Committee. The matter went up to the Hon"ble Supreme Court where Full Bench Judgment was upheld vide judgment dated 03rd January 2006. Thereafter, the State of Jharkhand like its counterpart the State of Bihar, has constituted a Committee under the Chairmanship of Sayeed Mobin Alam to undertake the screening process of teaching and non-teaching staffs of Project Girls" High Schools for regularization and payment of salary to them. The said Committee vide its report dated 30th September 2007 (Annexure-3) rejected the petitioner"s claim for approval of such services.

4. Learned counsel for the petitioner, by referring to Annexure-3 series, submits that other aggrieved person like the petitioner, namely, Yudhisthir Mandal whose name is indicated at serial No. 3 of the said list, approached this Court in WPS No. 2010/13 which was finally disposed of vide judgment dated 2nd July 2013. In the case of Yudhisthir Mandal (Supra), who is said to be similarly situated to that of the petitioner, it is stated that the said person had obtained teachers training qualification from Sister Nivedita College, Kolkata in the year 1994 before coming into force of NCTE Act, 1993 with effect from July 1995. In such circumstances, negating the contention of the respondent, this Court directed the concerned respondents under the Human Resources Development Department, Government of Jharkhand i.e. the competent authority to issue appropriate order recognizing the services of the said petitioner as an Assistant Teacher in the Project Girls" High School, Kharsawan and pay all consequential benefits including arrears of his salary, within a stipulated period. Subsequently, in the case of one Assistant Teacher of

Nageshwari Devi Project Girls" high School, Kasba Mehrama, Godda, this Court vide order dated 3rd July 2013 passed in WPS No. 1249/13 (Gautam Kumar Thakur vs. The State of Jharkhand & others) following the earlier judgments, once again directed the Secretary of the concerned Human Resources Development Department to pass appropriate orders regarding regularization of the petitioner's services and pay consequential benefits including arrears of salary, etc within a stipulated period.

5. Learned counsel for the petitioner submits that the case of the petitioner is identical to Yudhisthir Mandal (Supra) as the petitioner has obtained teachers training qualification from Sambalpur University in the year 1990 itself even before Yudhisthir Mandal. Therefore, the parity of treatment should be accorded to this petitioner who is also one of the aggrieved persons in view of the report of the Screening Committee (Annexure-3).

6. Counsel for the respondent State, in the wake of the aforesaid facts and circumstances, is not able to distinguish the judgment relied upon by the petitioner, specially to that of Yudhisthir Mandal (Supra).

7. In the facts and circumstances of the case therefore, it appears that in the case of similarly situation persons, directions have been issued for recognition/regularization of the services of the said teacher- in the same school i.e. Project Girls" High School, Kharsawan earlier by this Court. The contention of the respondents in relation to acquisition of the teachers training qualification of the said petitioner before coming into force of NCTE Act with effect from 1995 was also considered and found that the incumbent had obtained teachers training qualification before coming into force of NCTE Act, 1993 from Sister Nivedita College, Kolkata and both of them had obtained qualification before submission of the recommendation by three men committee (Annexure-3). In such circumstances, there is no reason to take a different view in the case of the petitioner who is also an Assistant Teacher in the same Project Girls" High School, Kharsawan and whose name also appear in Annexure-3 report dated 30th September 2007 refusing his case. In the aforesaid facts and circumstances therefore, the present writ application is disposed of by directing the respondent No. 2 - The Principal Secretary, Department of Human Resources Development, Government of Jharkhand to issue appropriate orders recognizing the services of the petitioner as an Assistant Teacher in Project Girls" High School, Kharsawan and pay all consequential benefits including arrears of 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 interest @ 10% per annum from the date the amount found payable, till the date of final payment. The writ petition and both the interlocutory applications are accordingly disposed of in the aforesaid terms.