

Kiran Kumari Vs The State of Jharkhand

Court: Jharkhand High Court

Date of Decision: Sept. 19, 2014

Citation: (2014) 4 JLJR 300

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Afaque Ahmad and Shadab Bin Haque, Advocate for the Appellant; Sunil Singh, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.

Heard learned counsel for the petitioners and the State. The private respondents have not appeared in the matter

on the earlier date and today also, no one has appeared on behalf of the private respondents. The issue involved in the present writ petition raised

on behalf of the petitioners, who are Assistant Teachers in Government Basic School is that qualification of Sahityalankar/Visharad should not be

treated equivalent to Bachelor in Arts Degree i.e. Graduation for the purposes of promotion of Teachers on the post of Head-master of Basic

School, Lecturer in Primary Teacher's Training College, Block Education Extension Officer, which belongs to Subordinate Education Service.

2. The petitioners are aggrieved by letter bearing 6063 dated 3.11.2003 issued by the Department of Personnel, Administrative Reforms &

Rajbhasa, Government of Jharkhand whereby the order bearing No. 541 dated 11.1.1991 issued by the Department of Personnel &

Administrative Reforms, Government of Bihar was made applicable to the State of Jharkhand as well whereunder the qualification of Sahityalankar

from the Hindi Vidyapeeth, Deoghar, has been treated equivalent to Bachelor in Arts Degree.

3. After hearing the learned counsel for the parties on a previous occasion on 6.3.2014, the following order was passed:--

These petitioners are Assistant Teachers in Government Basic School in various district of the State of Jharkhand. They have challenged the

Letter No. 6063 dated 3.11.2003 issued by the Department of Personnel, Administrative Reforms and Rajbhasa, Government of Jharkhand,

Ranchi, who has adopted the order as contained in Memo No. 541 dated 11.1.1991 issued by the Department of Personnel and Administrative

Reforms, Government of Bihar, whereunder the qualification of Sahityalankar from the Hindi Vidyapeeth, Deoghar has been treated to be

equivalent to Bachelor of Arts degree.

The background for the petitioners to make such a challenge is on account of the fact that certain assistant teachers of the basic schools, who have

obtained qualification of Sahityalankar, have been treated to be graduate for the purpose of promotion to the Subordinate Education Service under

the respondent State. Some of the persons, who have been promoted as such, have also been impleaded as party respondent in the present writ

petition subsequently by challenging their order of promotion in I.A. No. 2074/2005. When the matter has been taken up, learned counsel for the

petitioners has brought to the notice of the Court the judgment rendered by the Patna High Court in the Case of Reeta Srivastava and Others Vs.

The State of Bihar and Others, , as per which, it has been held that Sahityalankar degree is not equivalent to graduation and no holder of said

degree can claim the benefit of promotion to the Subordinate Education Service as a matter of right. Recognition, if at all given by the State to such

a degree is with a limited object for the purpose of qualifying any Hindi examination and drawing advantage thereof in service and not to beget

appointment based on the eligibility laid down for such recruitment or promotion by treating such a degree to have equivalence.

Counsel for the petitioners has also brought to the notice of the Court the judgment rendered by the Division Bench of the Patna High Court in

Letter Patent Appeal No. 1303/2012 dated 13.12.2012 by which the letter patent appeal preferred against the said judgment of the learned Single

Judge (supra) has been dismissed.

The respondent State have also filed an affidavit in the year 2004 taking a simple stand that the notification/order of the erstwhile State of Bihar is

applicable in view of the provisions of the Bihar Reorganization Act and further they have also adopted it as such vide Annexure-8 dated

3.11.2003 by the Department of Personnel, Administrative Reforms and Rajbhasa, Government of Jharkhand, Ranchi, as well. In the meantime,

based upon such qualification, several persons such as private respondents have also gained promotion to the Subordinate Education Service and

have appeared in the present case as well.

Therefore, in the light of the judgment of the Patna High Court as aforesaid, it is proper to have a fresh considered response of the State of

Jharkhand on the aforesaid aspect of the matter.

On this, counsel for the respondent State is allowed six weeks time to obtain instruction and file their considered response taking into account the

judgment rendered by the Patna High Court, referred (supra). As the matter is pending since 2003, it is expected that the respondent State would

not seek further time and come out with considered response by the next date.

Let this case appear after six weeks under the same heading commencing from 22.4.2014.

4. The respondent-State have thereafter filed their affidavit containing their considered response in respect of the issues, which were referred in the

said order, which have also cropped up during the pendency of the writ petition as well. In the counter affidavit filed by the respondent, Director,

Primary Education, Human Resources Development Department, Government of Jharkhand on 3.7.2014, it has been stated that a five member

committee was constituted for giving report on the equivalence of the degrees/certificates issued by Hindi Vidyapeeth, Deoghar and different

institutions affiliated/related with Madarsha Board and Sanskrit Language with the degrees issued by the State Universities/Board. The committee

comprises of the Director, Higher Education, Human Resources Development Department, Jharkhand, Head of Departments of Hindi, Urdu &

Sanskrit of the Ranchi University, Ranchi, Chairman, Academic Council, Jharkhand. It is stated that the committee was expected to submit its

report within a short time on the very issue as to whether the decree of Sahityalankar is to be treated equivalent of Graduation Degree of

recognized University or not. However, as per the statement made by the respondents at para-11 of the counter affidavit, Hindi Vidyapeeth,

Deoghar is neither a State University nor a Central University established by the Act of the State/Central Government. It is also not a deemed

University. Therefore, its certificates cannot be equivalent to the degree of a University or Board/Council of the Central/State Government.

5. Reference has been made to the letter dated 25.5.2004 of the Central Hindi Directorate, which has clarified that degree conferred by the

institutions named therein are not equivalent to full-fledged Degree or Diploma rather it is limited upto knowledge of Hindi only. The name of Hindi

Vidyapeeth, Deoghar figures at serial No. 4 of the list attached with the said press note. The respondents have also referred to the judgment

rendered by the Patna High Court in C.W.J.C. No. 13343 of 2011 in the case of Reeta Srivastava and Others Vs. The State of Bihar and Others,

, which has also been confirmed by the Division Bench of the Patna High Court as per the judgment passed on 26.11.2012 in LPA No. 953 of

2012, Annexure-C. Relying upon ratio laid down in the aforesaid judgment, it has been stated at para-15 of the counter affidavit that it is clear that

the qualification of Sahityalankar degree issued by the Hindi Vidyapeeth, Deoghar is not equivalent to graduation degree issued by the Universities.

6. In the wake of the aforesaid categorical stand taken by the respondents the grievances of the petitioners appear to have been redressed, which

related to challenge to the letter dated 3.11.2003 issued by the Department of Personnel, Administrative Reforms & Rajbhasa, Government of

Jharkhand as per which qualification of Sahityalankar from the Hindi Vidyapeeth, Deoghar had been treated equivalent to Bachelor in Arts Degree

in view of the order bearing No. 541 dated 11.1.1991 issued by the Department of Personnel, Administrative Reforms, Government of Bihar.

7. Learned counsel for the petitioners have pointed out that the private respondents have been granted promotion in the meantime, which was also

challenged by way of I.A. No. 2074 of 2005, which was treated to be part of the main writ petition vide order dated 3.7.2008. The petitioners

were also permitted to file an application for adding those sixty seven persons as party respondents. By way of I.A. No. 2609 of 2008, the

petitioners made a prayer for adding necessary parties. Upon the said I.A. the petitioners were allowed to take steps for service of notice upon the

newly added respondents vide order dated 4.9.2008. The private respondents have, thereafter, appeared through their counsel and have also filed

their counter affidavit. It is also pointed out by the learned counsel for the petitioners that vide order dated 12.12.2003, this Court had observed

that any promotion or seniority list shall be subject to the result of this writ application. Learned counsel for the petitioners, therefore, submits that

any promotions, which have been granted to the private respondents during the pendency of the writ petition, therefore, has to go as the same

were not only challenged in the writ petition but were made subject to the result of the writ application.

8. Since, the respondent-State has also clearly come out with their stand that qualification of Sahityalankar is not equivalent to graduation as per

the ratio laid down by the judgment rendered by the Patna High Court in the case of Reeta Srivastava (supra), therefore, no sanctity or legality can

be attached to the promotion granted to the private respondents to the posts which belongs to Subordinate Education Service during the pendency

of the writ petition on the basis of the said qualification. No promotion to Subordinate Education Service can be claimed as a matter of right.

9. I have heard learned counsel for the petitioners and the State and have gone through the relevant materials on record including the judgment

rendered by the Patna High Court and the considered stand of the respondent-Government of Jharkhand filed on 3.7.2014. it is evident that

qualification of Sahityalankar cannot be treated as equivalent to graduation or Bachelor in Arts Degree for the purposes of claiming any benefit for

promotion to the post of Subordinate Education Service by the private respondents. Any promotion, therefore, granted on the basis of such

qualification to the private respondents has to go.

10. Therefore, the order of promotion based on such claim of qualification of Sahityalankar cannot be held to be legal and valid. Any promotion

granted pursuant to the order dated 26.7.2005 at Annexure-10, to the private respondents cannot be sustained in eye of law as is accordingly

quashed.

11. In view of the aforesaid legal position that the qualification of Sahityalankar cannot be treated as equivalent to graduation, the State

respondents would act accordingly in matters of the seniority list of such Teachers.

12. The writ petition is allowed in the manner indicated hereinabove. I.A. No. 1022 of 2004 and I.A. No. 2074 of 2005 stand closed.