

## Arun Kumar Mishra Vs The State of Jharkhand and Others

**Court:** Jharkhand High Court

**Date of Decision:** March 13, 2014

**Hon'ble Judges:** Aparesh Kumar Singh, J

**Bench:** Single Bench

**Advocate:** V. Shivnath, Sr. Advocate, M.M. Sharma and Lalan Kumar Singh, Advocate for the Appellant; S. Piprawal, M. Thakur and K.K. Sinha for the J.P.S.C., Prabhask Kumar for the U.O.I. Navnit Prakash, J.C. to Sr. S.C.I. and Abhijit Kumar Singh, J.C. to G.P. V, Advocate for the Respondent

**Final Decision:** Dismissed

### Judgement

Aparesh Kumar Singh, J.

Heard Learned senior counsel for the petitioners and learned counsel for the State, Union of India and J.P.S.C.

Since common grievance has been raised by all the writ petitioners, same are being heard together and decided by this common judgment.

2. For convenience the facts and the relevant Annexures of WP(S) No. 2827/2004 are being noticed, as common grounds have been taken in all

the writ petitions by the respective petitioners, which has been contested on common grounds raised by the respondents in each of these writ

petitions.

3. In all these writ petitions the petitioners had faced a selection exercise for appointment to the post of primary teachers in Government schools in

the State of Jharkhand under Advertisement issued on 28.8.2002, which is contained in Annexure 14 to W.P. (S) No. 2827/2004.

4. The grievances of these practitioners are that after having succeeded in the selection exercise and having come in the merit list declared by

J.P.S.C., they have not been appointed to the post of primary teachers on the simple ground that they had obtained the teachers training

qualification i.e. Siksha Visharad from Hindi Sahitya Sammelan, Allahabad, which is not treated equivalent to B.Ed, degree in terms of Rule

2(Kha) of the Jharkhand Primary School Recruitment Rules, 2002 as amended from time to time.

5. Another ground to assail the impugned order is that the Hindi Sahitya Sammelan, Allahabad is a deemed University recognized by the

Government of India and the Siksha Visharad is a degree, recognized by the University Grant Commission. The Siksha Visharad degree provided

by the Hindi Sahitya Sammelan is equivalent to B.Ed. degree i.e. teachers training qualification required by the respondent-Government of

Jharkhand under the said advertisement. The Central Board of Secondary Education has also recognized the B.Ed. degree from Hindi Sahitya

Sammelan, Prayag, Allahabad as a qualification making a person eligible to be appointed as a trained teacher.

6. It has further been submitted that though the original advertisement of 2002 did not prescribe any such precondition for refusing to appoint the

selected persons on the ground that their teachers training qualification has not been recognized by the respondents but by subsequent circulars

dated 10.2.2004 and 27.3.2004 the qualification of the petitioners i.e. Siksha Visharad has been declared to be not equivalent to B.Ed. degree for

the purpose of appointment in the school, which amounts to change in the rules of the game after it has started.

7. Learned senior counsel for the petitioner has sought to rely upon a division Bench judgment of this Court in the case of Dilip Kumar Gupta and

Others Vs. State of Jharkhand and Others, to submit that in the said case on the materials available before the learned Division Bench that the

appellants had not been able to make it clear whether the institute from which they have completed teachers training course is a recognized institute

and/or affiliated by Hindi Sahitya Sammelan or not had occasion to hold that in absence of such averment no finding can be given that they had

obtained degree/diploma from a recognized institute. The question relating to the recognition of the degree Siksha Visharad, therefore, is left open

to the petitioners herein to be agitated. The present batch of cases have sufficient materials on record to show that Siksha Visharad degree given

by a deemed University i.e. Hindi Sahitya Sammelan, Prayag, Allahabad is equivalent to the B.Ed. degree for the purpose of employment under

the respondent-State of Jharkhand. Therefore, the respondents are not justified in refusing appointment to the petitioner, who have otherwise

succeeded in the merit test.

8. Counsel for the petitioners has also referred to the judgment rendered in the case of State of Jharkhand v. Sarbani Bose in L.P.A. No. 400 of

2006 dated 24.11.2006 where the judgment rendered in the case of Dilip Kumar Gupta (supra) has been explained. In such circumstances, the

petitioners have sought for a direction upon the respondents to appoint them as primary teachers in the Government schools.

9. Counsel for the respondent-State has straightway contended that Human Resource Development Department, Government of Jharkhand in line

with the stipulation contained in the Advertisement, Annexure 14, issued circulars to the district authorities for the purposes of verification of the

credential and testimonials of the successful candidates by issuing letters/directions dated 16.2.2004, Annexure-R-10/A and 27.3.2004,

Annexure-R-10/B to their counter affidavit. It is submitted that the direction dated 27.3.2004 was issued declaring that the qualification of Siksha

Visharad obtained from Hindi Sahitya Sammelan, Allahabad is not treated equivalent to B.Ed. degree after due correspondences from the

Director, Higher Education, Uttar Pradesh as also from the Director, State Council for Teachers Education, Uttar Pradesh, it is submitted that

circular dated 27.3.2004 was the subject matter of consideration before the learned Division Bench of this Court in the case of Dilip Kumar Gupta

(supra) and the same has been upheld. He submits that the relevant discussion relating to Hindi Sahitya Sammelan, Prayag in the said judgment is at

para 43, which takes note of all the contentions raised by the petitioners as well and after posing a question i.e. whether the degree/certificate of

Siksha Visharad is equivalent to B.Ed. or any other-teachers training course as prescribed under Rule 2(Kha) of the Rules, 2002, proceeded to

answer it in negative in the same paragraph. It is submitted that since the validity of the aforesaid circulars have already been decided and upheld, it

cannot be questioned now by the petitioners that the said circular amounts to change in the rule of the games after issuance of advertisement.

10. The argument of the respondent-State has also been adopted by the learned counsel for the Union of India and J.P.S.C., Learned counsel for

the State has submitted that one of the aggrieved person, who was a party in the batch of cases decided in the case of Dilip Kumar Gupta (Supra)

being Seema Kumari & others, had also challenged the said judgment before the Hon"ble Supreme Court in the case of Seema Kumari & Ors. v.

State of Jharkhand & ors., reported in 2006 (12) SCC 215 and was unsuccessful.

11. I have heard learned counsel for the parties and gone through the relevant materials on record.

12. Upon hearing the learned counsel for the parties and going through the relevant materials on record and the judgment relied on by the parties, it

appears that the learned senior counsel for the petitioners has contended that upon declaration of the Government of India treating the Hindi

Sahitya Sammelan, Prayag, Allahabad as a deemed University and the declaration of the University Grant Commission as to the degree of Siksha

Visharad, these petitioners have obtained the proper teachers training qualification, which is equivalent to B.Ed. degree. Therefore, it entitles them

to be appointed in the primary schools upon being successful in the recruitment test conducted by J.P.S.C. in the advertisement of 28.8.2002 in

question. However, the question in the present case is whether the respondent-State under the provisions of Rule 2(Kha) of the Rules, 2002 have

treated the qualification of Siksha Visharad issued from the Hindi Sahitya Sammelan, Prayag, Allahabad as equivalent to B.Ed. degree or not.

Apparently the respondents have refused to recognize the qualification of Siksha Visharad equivalent to B.Ed. degree under the direction issued on

27.3.2004 after making correspondences from the Director, Higher Education, Uttar Pradesh and from the Director, State Council for Educational

Research and Training, Uttar Pradesh, as referred to in the same letter. The aggrieved persons, who also were denied such appointment had

questioned the stand of the State refusing to declare Siksha Visharad degree as also other qualifications of teachers training equivalent to B.Ed.

degree in a batch of writ petitions, which were led by the case of Dilip Kumar Gupta (supra) and decided by the learned Division Bench of this

Court, reported in Dilip Kumar Gupta and Others Vs. State of Jharkhand and Others, . The interpretation of Rule 2(Kha), which laid down the

definition ""trained"" was under consideration, reference of which has been made in para 18 of the said judgment. The observation relating to Siksha

Visharad qualification granted by the Hindi Sahitya Sammelan, Prayag. is at para 43 of the said judgment. Perusal of the observations made in

aforesaid paragraph and the findings recorded thereunder indicate that the learned Division Bench clearly held that Hindi Sahitya Sammelan,

Prayag, Allahabad is a statutory body and University of national importance. However, the question, which was posed was whether the

degree/certificate of Siksha Visharad is equivalent to B.Ed. degree and any other teachers training course as per Rules, 2002. The learned Division

Bench after discussing the materials produced by the learned counsel for the parties relating to declaration of equivalence by various State

Government came to a conclusion that none of the circulars/orders/letters shows recognition of examination of Siksha Visharad conducted by

Hindi Sahitya Sammelan, Allahabad as equivalent to B.Ed. or any other teachers training degree/diploma certificate prescribed under Rule 2(Kha)

of Rules, 2002. It went on to hold that persons claiming said qualification, therefore, were not eligible under the rule to claim appointment in

pursuance to the advertisement of August, 2002.

13. In the present case the petitioners have once again tried to show that Hindi Sahitya Sammelan is a deemed University and Siksha Visharad is a

degree recognized by U.G.C. These facts obviously had also crossed the attention of the Division Bench of this Court when it held that it is a

statutory body and University of national importance. The question was whether the State of Jharkhand recognized the same as a degree

equivalent to B.Ed. degree. In the wake of discussions made in the said judgment, which relates to several other qualifications obtained from

different university, the directions as contained in circular dated 27.3.2004 were upheld. In the wake of such findings recorded by the Division

Bench on the validity of circular dated 27.3.2004, it is not permissible to be argued before this Court that by issuance of said circular the

respondents have illegally and arbitrarily changed the rule of the game after issuance of the advertisement. Apparently, the said circular was issued

to the district authorities for verification of the degree/credential of qualified candidates, who have been shown successful in the merit list prepared

by I.P.S.C. for their appointment in the respective schools in the respective districts.

14. It also appears that said judgment was taken in appeal before the Hon"ble Supreme Court in the case of Seema Kumari (supra), the Hon"ble

Supreme Court, however, refused to interfere in the judgment rendered by learned Division Bench of this Court.

15. Learned counsel for the petitioner, however, has sought to rely upon a Division Bench judgment in the case of State of Jharkhand and ors. v.

Sarbani Bose and Ors. (Supra) in which, judgment in the case of Dilip Kumar Gupta (supra) was explained. However, or perusal of the said

judgment dated 24.11.2006 in the case of State of Jharkhand and Ors. v. Sarbani Bose and Ors. (supra), it appears that the question raised

therein related to cancellation of provisional approval of appointment of Teachers, who had been appointed in the year 1993 on the basis of

certificate issued by one Dr. B.C. Roy College of Education, Calcutta in the year 1992. In the present case, however, the question before this

Court is in relation to an exercise conducted under the advertisement of 2002 for appointment of Primary Teachers in the schools of Government

of Jharkhand, where the qualification of Shiksha Visharad obtained from Hindi Sahitya Sammelan, Allahabad has not been treated to be equivalent

to B.Ed., degree.

16. The aforesaid issue, therefore, has invited attention of the learned Division Bench of this Court in the judgment rendered in the case of Dilip

Kumar Gupta (supra) and the points, which are now being raised by the petitioners are not new to what has already been decided in the said

judgment. Therefore, no ground is made out for interference in all these writ petitions, which are, accordingly, dismissed.