

[2011] 15 (ADDL.) S.C.R. 203

PUSHPA KUMARI & ORS.

v.

THE STATE OF BIHAR & ORS.

(Civil Appeal Nos. 8521-8522 of 2011)

OCTOBER 11, 2011

[R.V. RAVEENDRAN AND A.K. PATNAIK, JJ.]

National Council for Teacher Education Act, 1993 – Appellants pursued primary teachers training from a Women's Primary Teachers Training College during the sessions 1988-1990, 1991-1993, 1992-1994 and 1993-1995 respectively – Though the College was established in 1985, it was granted recognition by order dated 15.12.1994 by the State Government with retrospective effect for the sessions 1985-1987 to 1993-1995 – Appellants wished to take the teachers training examination conducted by the Bihar School Examination Board – Board did not issue them the examination forms – Appellants filed writ petition which was dismissed by the High Court – High Court held that since the College of the appellants had not applied for recognition under the NCTE Act, the appellants could not be allowed to take the examinations conducted by the Board – Held: As the NCTE Act came into force on 01.07.1995 and the NCTE was established on 17.08.1995, the NCTE Act had no application for any period prior to academic sessions 1995-1996 – The appellants who undertook teachers training course in the College which had a valid recognition of the State Government during the academic sessions 1985-1987 to 1993-1995 were entitled to take the examinations conducted by the Board – Board directed to conduct the examination for the appellants as early as possible.

Appellant Nos. 1, 2, 3 and 4 pursued primary teachers training from a Women's Primary Teachers Training

A College during the sessions 1988-1990, 1991-1993, 1992-1994 and 1993-1995 respectively. Though the College was established in 1985, after seven rounds of litigation it was granted recognition by order dated 15.12.1994 by the State Government with retrospective effect for the sessions 1985-1987 to 1993-1995 pursuant to the directions of the Court.

In response to an advertisement dated 26.05.2007 of the Bihar School Examination Board, the appellants approached the Board through the College for examination forms, but the Board did not issue the examination forms. The appellants then filed C.W.J.C. No. 7321 of 2007 before the Patna High Court for a direction to the Board to release the forms and accept the fees and forms of the appellants for the teachers training examination and to allow them to appear in the examination. A Single Judge of the High Court heard the Writ Petition alongwith other Writ Petitions on merits and dismissed the Writ Petitions by common order, after holding that under the National Council for Teacher Education Act, 1993 (the NCTE Act), it is only the National Council for Teacher Education (the NCTE) which can grant recognition for teachers training course and the College had not applied for recognition to the NCTE. Aggrieved by the order, the appellants filed Letters Patent Appeal, but the same was also dismissed by the Division Bench of the High Court. The appellants then filed Civil Review before the Division Bench, but the same was also dismissed.

In the instant appeals, the appellants contended that as the appellants had pursued their training in the College during the period for which the College had recognition, they were entitled to take the teachers training examination conducted by the Board and that the High Court was not correct in taking the view that since

the College had not applied for recognition under the NCTE Act, the appellants could not be allowed to take the examinations conducted by the Board because the NCTE Act came into force with effect from 01.07.1995 and the NCTE was established only on 17.08.1995 after the appellants had undertaken their training courses in the College.

The respondents, on the other hand, relied on the order dated 08.03.1999 of the High Court in C.W.J.C. No. 6950 of 1997 in which a similar relief claimed by the College itself for the students for the sessions 1987-1990 to 1993-1995 for directing the Board to allow them to take examinations was rejected by the High Court and contended that the aforesaid decision of the High Court was binding also on the appellants.

Allowing the appeals, the Court

HELD:1. As the appellants were not parties in C.W.J.C. No. 6950 of 1997, the order dated 08.03.1999 of the High Court in the said Writ Petition will not be binding on the appellants. The appellants had filed C.W.J.C. No. 7321 of 2007 and on perusal of the orders of the Single Judge passed in C.W.J.C. No. 7321 of 2007 and other connected cases, it is found that the only reason given by the Single Judge in dismissing the Writ Petition of the appellants is that the College had not applied for grant of recognition under the NCTE Act. Also the Division Bench of the High Court dismissed the Letters Patent Appeal of the appellants on the ground that the recognition which had been granted to the College had been withdrawn on 16.03.2007. Thus, neither the Single Judge nor the Division Bench of the High Court held that the recognition granted to the College by the order dated 15.12.1994 for the academic sessions 1985-1987 to 1993-1995 was invalid or stood cancelled. As the NCTE Act came into force on 01.07.1995 and the NCTE was

A established on 17.08.1995, the NCTE Act will have no application for any period prior to academic sessions 1995-1996. Thus the appellants who undertook teachers training course in the College which had a valid recognition of the State Government during the academic sessions 1985-1987 to 1993-1995 were entitled to take the examinations conducted by the Board. [Para 7] [209-C-H; 210-A]

C *Sunil Kumar Parimal and Anr. v. State of Bihar and Ors. (2007) 10 SCC 150: 2007 (9) SCR 890 and Kumari Ranjana Mishra and Anr. v. The State of Bihar and Ors. (2011) 4 SCC 192 – relied on.*

D 2. The order of the Single Judge as well as the orders of the Division Bench in the Letters Patent Appeal and in the Civil Review are set aside and the Board is directed to conduct the examination for the appellants as early as possible. [Para 8] [210-B-C]

Case Law Reference:

E 2007 (9) SCR 890 Relied on Para 5, 7
 (2011) 4 SCC 192 Relied on Para 5, 7

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 8521-8522 of 2011.

F From the Judgment & Order dated 12.11.2008 of the High Court of Patna in CR No. 289 of 2008 and LPA No. 796 of 2007.

G Ravi C. Prakash, Trishna Mohan, C.D. Singh, Gopal Singh, Manish Kumar, Chandan Kumar, Purushottam S.T., Filza Moonis and Amit Pawan for the appearing parties.

The Judgment of the Court was delivered by

H A. K. PATNAIK, J. 1. Leave granted.

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ORS. [A.K. PATNAIK, J.]

2. This is an appeal against the order dated 12.11.2008 of the Division Bench of the Patna High Court in Letters Patent Appeal No. 796 of 2007 and order dated 06.02.2009 in Civil Review No. 289 of 2008. A

3. The facts very briefly are that Millia Kaneez Fatima Women's Primary Teachers Training College, Rambag, Purnea (for short 'the College') is a minority institution established and maintained by the Millia Education Trust. Though the College was established in 1985 for imparting teachers training course, after seven rounds of litigation it was granted recognition by order dated 15.12.1994 by the State Government with retrospective effect for the sessions 1985-1987 to 1993-1995 pursuant to the directions of the High Court in C.W.J.C. No. 1304 of 1993. Appellant Nos. 1, 2, 3 and 4 pursued their training in the College during the sessions 1988-1990, 1991-1993, 1992-1994 and 1993-1995 respectively. In response to an advertisement dated 26.05.2007 of the Bihar School Examination Board (for short 'the Board') the appellants approached the Board through the College for examination forms, but the Board did not issue the examination forms. B
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4. The appellants then filed C.W.J.C. No. 7321 of 2007 before the Patna High Court for a direction to the Board to release the forms and accept the fees and forms of the appellants for the teachers training examination and to allow them to appear in the examination. Alongwith the Writ Petition, the appellants also filed an application for interim orders and on 13.06.2007, the learned Single Judge of the High Court passed an interim order directing the Board to accept the fees and forms of the appellants and allow them to appear in the ensuing teachers training examination. The Board, however, did not comply with the interim order. On 24.08.2007, the learned Single Judge heard the Writ Petition alongwith other Writ Petitions on merits and dismissed the Writ Petitions by common order, after holding that under the National Council for Teacher Education Act, 1993 (for short 'the NCTE Act'), it is F
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- A only the National Council for Teacher Education (for short 'the NCTE') which can grant recognition for teachers training course and the College had not applied for recognition to the NCTE. Aggrieved by the order dated 24.08.2007 the appellants filed Letters Patent Appeal No. 796 of 2007, but the same was also
- B dismissed by the Division Bench of the High Court by the impugned order dated 12.11.2008. The appellants then filed Civil Review No. 289 of 2008 before the Division Bench, but the same was also dismissed by order dated 06.02.2009 of the Division Bench of the High Court.
- C 5. Learned counsel for the appellants submitted that the College of the appellants was granted recognition by the State Government by order dated 15.12.1994 for the academic sessions 1985-1987 to 1993-1995. He submitted that this recognition was cancelled by memo no. 332 dated 18.11.1999,
- D but the High Court quashed the memo no. 332 dated 18.11.1999 in C.W.J.C. Nos. 4622, 11275 and 11640 of 2009 and against the orders passed in these Writ Petitions no appeal was preferred by any party and all this would be evident from the copy of the order dated 03.07.2009 of the High Court in
- E C.W.J.C. No. 2329 of 2009 filed as an additional document. He submitted that the result is that the recognition of the College granted by the State Government by order dated 15.12.1994 for the sessions 1985-1987 to 1993-1995 has been restored. He submitted that as the appellants had
- F pursued their training in the College during the period for which the College had recognition, they were entitled to take the teachers training examination conducted by the Board. He vehemently argued that the High Court was not correct in taking the view that since the College had not applied for recognition
- G under the NCTE Act, the appellants could not be allowed to take the examinations conducted by the Board because the NCTE Act came into force with effect from 01.07.1995 and the NCTE was established only on 17.08.1995 after the appellants had undertaken their training courses in the College. He relied on
- H the decisions of this Court in *Sunil Kumar Parimal and Another*

v. *State of Bihar and Others* [(2007) 10 SCC 150] and *Kumari Ranjana Mishra and Another v. The State of Bihar and Others* [(2011) 4 SCC 192] in support of his submissions. A

6. Learned counsel for the respondents, on the other hand, relied on the order dated 08.03.1999 of the High Court in C.W.J.C. No. 6950 of 1997 in which a similar relief claimed by the College itself for the students for the sessions 1987-1990 to 1993-1995 for directing the Board to allow them to take examinations has been rejected by the High Court. He submitted that the aforesaid decision of the High Court was binding also on the appellants. B
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7. We are of the considered opinion that as the appellants were not parties in C.W.J.C. No. 6950 of 1997, the order dated 08.03.1999 of the High Court in the said Writ Petition will not be binding on the appellants. The appellants had filed C.W.J.C. No. 7321 of 2007 and we have perused the orders of the learned Single Judge passed in C.W.J.C. No. 7321 of 2007 and other connected cases and we find that the only reason given by the learned Single Judge in dismissing the Writ Petition of the appellants is that the College had not applied for grant of recognition under the NCTE Act. We also find that the Division Bench of the High Court has dismissed the Letters Patent Appeal of the appellants on the ground that the recognition which had been granted to the College had been withdrawn on 16.03.2007. Thus, neither the learned Single Judge nor the Division Bench of the High Court have held that the recognition granted to the College by the order dated 15.12.1994 for the academic sessions 1985-1987 to 1993-1995 was invalid or stood cancelled. As the NCTE Act came into force on 01.07.1995 and the NCTE was established on 17.08.1995, this Court has held in *Sunil Kumar Parimal and Another v. State of Bihar and Others* and *Kumari Ranjana Mishra and Another v. The State of Bihar and Others* (supra) that the NCTE Act will have no application for any period prior to academic sessions 1995-1996. Thus the appellants who D
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A have undertaken the teachers training course in the College which had a valid recognition of the State Government during the academic sessions 1985-1987 to 1993-1995 were entitled to take the examinations conducted by the Board.

B 8. We accordingly allow these appeals, set aside the order of the learned Single Judge as well as the orders of the Division Bench in the Letters Patent Appeal and in the Civil Review and direct the Board to conduct the examination for the appellants as early as possible. There shall be no order as to costs.

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B.B.B.

Appeals allowed.