

SC 21  
29/8/13

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction Cases)

M.J.C. No. .... /2013

(Arising out of C.W.J.C. No. 11935/12)

Yogendra Kumar Das . .... Petitioner

Versus

The State of Bihar and Ors. ....Contemnor/ Opposite Parties.

Sub:- Contempt petition.

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction Cases)

M.J.C. No. .... /2013

(Arising out of C.W.J.C. No. 11935/12 passed order dated  
24.7.2012 )

In the matter of an application under  
article 215 of the Constitutes of India,  
read with section 12 of the Contempt  
Court act 1971.

And

In the matter of

Yogendra Kumar Das Son of Parmeshwari Das, Resident of  
Village – Rajni ( Pokhar) P.O. – Rajni Goth, P.S. - Murliganj,  
District – Madhepura.

.....Petitioner.

Versus

1. The State of Bihar through Mr. Amarjeet Sinha, The Principal Secretary, Education Department, Vikash Bhawan, Patna.
2. Mr. Ajay Kumar Choudhary, the Director Primary Education, Bihar, Patna.
3. Mr. Ram Sarnagat Singh, The Joint Secretary, Education Department, Bihar, Patna.
4. Mr. Miland Kumar Sinha, the District Education Officer, Madhepura, District – Madhepura.

..... Contemnors/ Opposite Parties.

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and her Companion justices of the said Hon'ble Court.

The humble contempt  
petition on behalf of the  
petitioner above named.

**MOST RESPECTFULLY WHEWETH :-**

1. That the instant petition is directed for initiation of a contempt proceeding against the guilty contemnors/ opposite parties who appeared to have deliberately and willful violation of the order dated 24.07.12 passed in C.W.J.C. No. 11935 of 2012 ( Yogenedra Kumar Das Versus the State of Bihar and Ors. ) with others analogous cases by the Hon'ble Mr. Justice Navin Sinha , one of the Hon'ble Judge of this Hon'ble Court.
2. That for clarity and brevity of the case certain facts are being given herein under.
3. That it is stated that the state Govt. has decided to filed up the post of an assistant teacher numerically 34,540 in compliance of the judicial verdict passed by the apex court in case of Nan Kishore Ojha and other. In this regard rule

was enacted and applications were called up having the qualification of Teacher's training under Advertisement No. 210/10.

4. That it is stated that the petitioner and others having requisite qualification had filed up the application alongwith testimonials and others required paper before the competent authority. It is also submitted that after proper verification, session wise integrated seniority list was prepared in respect of the advertisement on 210/10. It is submitted that in pursuant to the direction issued by the Apex Court under M.J.C. No. 297/07 the dispute with respect to seniority, correctness or any defect were placed and duly consider by the special officer appointed for the said purpose. It is further submitted that after settlement the penal was prepared by the opposite parties and were place before the Apex Court in which name of the petitioner has also found place which was accepted by the apex court and / apex Court has been appointment from

the said list . The contempt proceeding was concluded finally.

5. That it is stated that the apposite parties after completing process under the law allotted the District to the petitioner and on or after verification of relevant paper including testimonial she was appointed vide memo No.711dated 15.02.12 issued by the District Education Officer Madhepura letter of appointment itself reflect that the appointment letter was issued in teeth of the order in contempt proceeding provision of rule 2010 and department letter No. 41.
6. That it is stated that the petitioner was posted in Upgraded Middle School Murliganj, Block – Murliganj, District – Madhepura , and on that basis be he submitted he joining before the Block Education officer Murliganj, District – Madhepura on 16.03.12 which was accepted and allow to perform his duty .

7. That it is stated that the District Education officer Madhepura , has committed serious error of record and wrong while dismissing the petitioner from service with immediate effect vide order contained in memo no. 1400 dated 6-6-12 even without show cause and providing opportunity of hearing which is the basic elementary law.
8. That against his dismissal petitioner moved before this Hon'ble Court in C.W.J.C. No. 11935 of 2012 ( Yogendra Kumar Das Versus the State of Bihar and Ors. ) on 24.07.12 Hon'ble Court heard this matter and issued direction to the opposite parties to redress the grievances of Petitioner within in 2 months.

A copy of order dated  
24.07.12 is being annexed as  
Annexure – 1 to this petition.

9. That this state here that after petitioner filed detail representation before principal secretary, Education Department, Director, Primary Education Joint Secretary

Education Department and also District Education officer Madhepura on 8.8.12 and 3.8.12 respectfully and requested them to take appropriate action in this regard.

Copies of letter dated 8.8.12 is being annexed as Annexure -2 to this petition.

10. That it is humbly submitted here that the contemnors/ Opposite parties did not pass any appropriate order with regard to the order passed by this Hon'ble Court.
11. That the action of opposite parties / contemnors are not complying order of the court which is contemptuous and hence the opposite parties are label to be punished severally as they have got no respect for the order of this Hon'ble Court, by which they are to be fully committing contempt of court.



12. That the opposite parties / contemnors are sitting tight over the matter have no respect for the court of law which is well within their knowledge.
13. That the petitioner has not moved earlier before this Hon'ble Court against the order dated 24.7.12 passed in C.W.J.C. No. 11935 /12

It is therefore, prayed that Lordships may graciously be pleased to issue notice to the guilty opposite parties/ contemnors as to why contempt proceeding be not initiate against them for violation of order dated 24.07.12 and after hearing the parties be further pleased award suitable punishment to the contemnors/ opposite Parties for willful violation of order dated 09.10.12 in C.W.J.C. No. 11935

/12 and further be pleased to  
directed to comply the order in  
question in true spirit.

And/Or

Be pleased to pass such other  
order/orders as your Lordships may  
deem fit and proper.

And for this the petitioner shall ever pray.

**AFFIDAVIT**

I, Yogendra Kumar Das aged about -44 years, Son of Parmeshwari Das, Resident of Village – Rajni ( Pokhar) P.O. – Rajni Goth, P.S. - Murliganj, District – Madhepura do hereby solemnly affirm and state as follows :-

1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of this petitioner have been read over and explained to me in Hindi which I have understood and they are true to my knowledge.
3. That the Annexures are photo/true copies of the respective originals.

*Yogendra Kumar Das*

*Amara - 1*

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11749 of 2012**

1. Sangeeta Kumari D/O Shri Bhagwat Pd. Mandal R/O Village- Rahua,  
P.O.- Sabaila, P.S.- Saur Bazar, District- Saharsa

..... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Education Department, Vikash Bhawan, Patna
2. The Principal Secretary Education Department, Govt. Of Bihar, Vikash Bhawan, Patna
3. The Joint Secretary Education Department, Govt. Of Bihar, Vikash Bhawan, Patna
4. The Director, Primary Education, Govt. Of Bihar, Patna
5. The District Education Officer, Purnia, District- Purnia
6. The Block Education Extension Officer, Amour, District- Purnia
7. The Head Master, Middle School, Kochka, Amour Block, District- Madhepura

..... Respondent/s

with

**Civil Writ Jurisdiction Case No.11935 of 2012**

1. Yogendra Kumar Das S/O Parmeshwari Das Resident Of Village- Rajni (Pokhar), P.O- Rajni Goth, P.S- Murliganj, District- Madhepura

..... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Education Department, Vikash Bhawan, Patna
2. The Principal Secretary Education Department, Govt. Of Bihar Vikash Bhawan, Patna.
3. The Joint Secretary, Education Department Govt. Of Bihar, Vikash Bhawan, Patna.
4. The Director Primary Education Govt. Of Bihar, Patna.
5. The District Education Officer, Madhepura, District- Madhepura.
6. The Block Education Extension Officer, Murliganj Block District- Maghepura.

..... Respondent/s

with

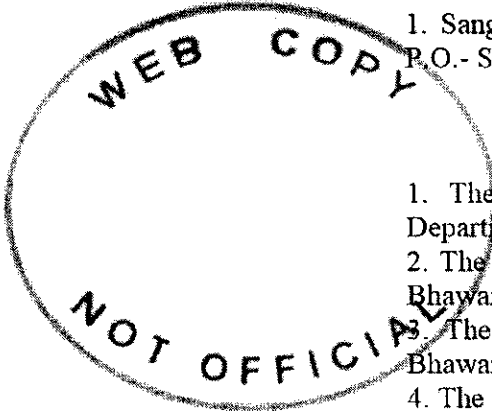
**Civil Writ Jurisdiction Case No.12012 of 2012**

1. Md.Moin Uddin S/O Md. Jahir Uddin Resident Of Village Reshma, P.O. Ararghat, P.S. Gwalpara, District Madhepura.

..... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Education



Department Vikash Bhawan, Patna.

2. The Principal Secretary, Education Department Govt. Of Bihar Vikash Bhawan, Patna.

3. The Joint Secretary, Education Department, Govt. Of Bihar, Vikash Bhawan, Patna.

4. The Director Primary Education Govt. Of Bihar, Patna.

5. The District Education Officer, Madhepura, District Madhepura.

6. The Block Education Extension Officer, Madepurablock, District Madhepura.

7. The Head Master, Up-Graded Middle School, Chakla, Madhepura.

..... Respondent/s

with

Civil Writ Jurisdiction Case No.11751 of 2012

1. Satrughan Prasad Yadav S/O Mahendra Prasad Yadav R/O Village-Haripur, Manhara, P.O.,P.S.- Murliganj, District- Madhepura

..... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Education Department, Govt. Of Bihar, Patna

2. The Principal Secretary Education Department, Govt. Of Bihar, Vikash Bhawan, Patna

3. The Joint Secretary Education Department, Govt. Of Bihar, Vikash Bhawan, Patna

4. The Director, Primary Education, Govt. Of Bihar, Patna

5. The District Education Officer, Madhepura, District- Madhepura

6. The Block Education Extension Officer Kumarkhand, Block + District- Madhepura

7. The Head Master, Up-Graded Middle School, Karuwaili, Kumarkhand Block, District- Madhepura

..... Respondent/s

**Appearance :**

(In CWJC No.11749 of 2012)

For the Petitioner/s : Mr. Shankar Kumar

For the Respondent/s : Mr. G.K. Agrawal Ga10

(In CWJC No.11935 of 2012)

For the Petitioner/s : Mr. Shankar Kumar

For the Respondent/s : Mr. Rakesh Kr Samrendra Sc21

(In CWJC No.12012 of 2012)

For the Petitioner/s : Mr. Shankar Kumar

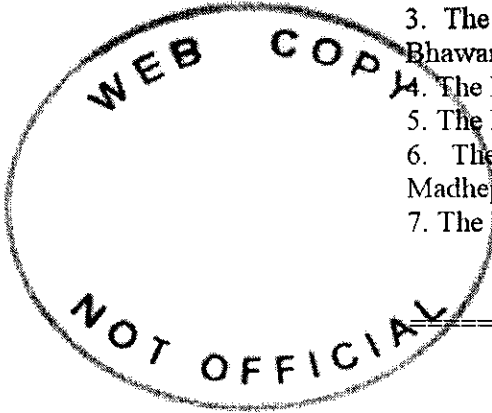
For the Respondent/s : Mr. Awdhesh Kumar Pandey Ga9

(In CWJC No.11751 of 2012)

For the Petitioner/s : Mr. Shankar Kumar

For the Respondent/s : Mr. Harendra Pd. Singh Ga8

**CORAM: HONOURABLE MR. JUSTICE NAVIN SINHA**  
**ORAL ORDER**



13

2 24-07-2012

Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners are aggrieved by the separate orders dated 30.5.2012, 6.6.2012, 6.6.2012 and 6.6.2012 respectively holding them to be ineligible for appointment notwithstanding the fact that their names were within the list of 34,540 persons approved by the Supreme Court for appointment on the post of Assistant Teachers.

The ground is that the training qualification in the Baby Teachers' Training course from Gandhi Hindi Vidyapith, Allahabad, Uttar Pradesh was not valid.

Learned counsel for the petitioners submits that the petitioners had obtained their training qualification from the aforesaid institution in 1987 prior to coming into force of N.C.T.E. Act in 1995.

Learned counsel for the State rightly submits that this being a foundational fact, not specifically asserted in the writ petitions, has to be left open for consideration by the respondents subject to the petitioners producing proof in support thereof.

Learned counsel for the petitioners relies upon an order in C.W.J.C. No.4802/09, 4803/09 dated 16.4.2009 noticing the facts with regard to the same training qualification obtained from the same institution and prior to coming into force of the N.C.T.E. Act vis-à-vis the

WR  
NO

14

Appointment Rules.

The present order has to be restricted in its construction only to those who claim to have acquired the training qualification pre N.C.T.E. and not post N.C.T.E.

Except for the aforesaid the issues appear covered by (2010) 4 P.L.J.R. 318 (D.B.).

The writ applications are therefore disposed in similar manner, with like directions for the respondents to consider in like manner for reasons as discussed therein and pass an appropriate reasoned and speaking order on the issue of the petitioners' termination preferably within a maximum period of two months from the date of receipt/ production of a copy of this order.

If the respondents find justification in the claim or in any part of the claim, they are necessarily required to pass appropriate orders on all consequential aspects of service from the date of appointment till reinstatement.

The writ applications are disposed.

(Navin Sinha, J)

K.C.jha/-

WR  
NO

To

The Principal Secretary,  
Education Department,  
Govt. of Bihar, Patna.

**Sub: For implementation of the order dated 24.07.2012 passed in C.W.J.C. No. 11935/12 registered as Yogendra Kumar Das Vs. The State of Bihar & others.**

Re

With due respect I beg to submit that I have obtained the qualification in Teacher's Training Course, a Two years course conducted by the Gandhi Hindi Vidyapith Prayag (U.P.) and result was published on 02.10.89 prior to coming into force of the N.C.T.E. Act.

That the aforesaid writ application has been filed for quashing the order contained in memo no. 1400 dt 06.06.12 issued by the District Education Officer, Madhepura whereby and whereunder my service has been terminated with immediate effect on the ground that the aforesaid order has been issued without any show cause and without leave to the Apex court because from the letter of appointment contained in Memo No. 722 dt. 15.02.12 it appears that the aforesaid letter of appointment has been issued in compliance of the order passed in Contempt Petition (C) No. 297/07 by the Apex Court and my name has found place at in the seniority list at Sl. No. 19182 submitted by the H.R.D. Deptt. approved by the Special Officer appointed by the Apex Court and accepted by the Apex Court and Deptt. Letter No. 41 issued by the Principal Secretary (iii) without any Departmental Proceeding as required in new rule (iv) as well as order contained in memo no. 322 dated 09.05.12 issued by the Joint Secretary, in which neither it has not been stated that the person who has already been appointed their service may be terminated nor the aforesaid order may be implemented with retrospective date and some other grounds.

This case was heard by Hon'ble Mr. Justice Navin Sinha on 24.07.12 and after hearing the parties his Lordship has held that



16

Learned counsel for the petitioners relies upon an order in C.W.J.C. No. 4802/09, 4803/09 dated 16.4.2009 noticing the facts with regard to the same training qualification obtained from the same institution and prior to coming into force of the N.C.T.E. Act vis-à-vis the Appointment Rules.

The present order has to be restricted in its construction only to those who claim to have acquired the training qualification pre N.C.T.E. and not post N.C.T.E.

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If the respondents find justification in the claim or in any part of the claim, they are necessarily required to pass appropriate orders on all consequential aspects of service from the date of appointment till reinstatement"

In that view of the matter it is just and proper that the aforesaid order may be implemented in true sence and spirit and within time granted by his lordships.

For this I shall ever pray.

**Enclosure :-**

1. A photocopy of the order dated 24.07.12 passed in C.W.J.C. No. 11935/12
2. A photocopy of the order dated 16.04.09 passed in C.W.J.C. No. 4802/09 & C.W.J.C. No. 4803/09

Your's faithfully,



**(Yogendra Kumar Das)**  
S/o Parmeshwar Das  
Village-Rajni, (Pokhar Tola), P.O.-  
Rajni Goth, P.S.-Murliganj, ,  
District-Madhepura.

8-8-12

The Joint Secretary,  
Education Department,  
Govt. of Bihar, Patna.

**Sub: For implementation of the order dated 24.07.2012 passed in C.W.J.C. No. 11935/12 registered as Yogendra Kumar Das Vs. The State of Bihar & others.**

Sir,

C-8-12

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The present order has to be restricted in its construction only to those who claim to have acquired the training qualification pre N.C.T.E. and not post N.C.T.E.

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If the respondents find justification in the claim or in any part of the claim, they are necessarily required to pass appropriate orders on all consequential aspects of service from the date of appointment till reinstatement."

In that view of the matter it is just and proper that the aforesaid order may be implemented in true sence and spirit and within time granted by his lordships.

For this I shall ever pray.

Your's faithfully,

**Enclosure :-**

1. A photocopy of the order dated 24.07.12 passed in C.W.J.C. No. 11935/12
2. A photocopy of the order dated 16.04.09 passed in C.W.J.C. No. 4802/09 & C.W.J.C. No. 4803/09

SD

**(Yogendra Kumar Das)**  
S/o Parmeshwar Das  
Village-Rajni, (Pokhar Tola), P.O.-  
Rajni Goth, P.S.-Murliganj.  
District-Madhepura.

8.8.12

The Director,  
Primary Education,  
Govt. of Bihar, Patna.

**Sub: For implementation of the order dated 24.07.2012 passed in C.W.J.C. No. 11935/12 registered as Yogendra Kumar Das Vs. The State of Bihar & others.**

Sir

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That the aforesaid writ application has been filed for quashing the order contained in memo no. 1400 dt 06.06.12 issued by the District Education Officer, Madhepura whereby and whereunder my service has been terminated with immediate effect on the ground that (i) the aforesaid order has been issued without an show cause (ii) without leave to the Apex court because from the letter of appointment contained in Memo No. 722 dt 15.02.12 it appears that the aforesaid letter of appointment has been issued in compliance of the order passed in Contempt Petition (C) No. 297/07 by the Apex Court and my name has found place at in the seniority list at Sl. No. 19182 submitted by the H.R.D. Deptt. approved by the Special Officer appointed by the Apex Court and accepted by the Apex Court and Deptt. Letter No. 41 issued by the Principal Secretary (iii) without any Departmental Proceeding as required in new rule (iv) as well as order contained in memo no. 322 dated 09.05.12 issued by the Joint Secretary, in which neither it has not been stated that the person who has already been appointed their service may be terminated nor the aforesaid order may be implemented with retrospective date and some other grounds.

This case was heard by Hon'ble Mr. Justice Navin Sinha on 24.07.12 and after hearing the parties his Lordship has held that

Learned counsel for the petitioners relies upon an order in C.W.J.C. No. 4802/09, 4803/09 dated 16.4.2009 noticing the facts with regard to the same training qualification obtained from the same institution and prior to coming into force of the N.C.T.E. Act vis-à-vis the Appointment Rules.

The present order has to be restricted in its construction only to those who claim to have acquired the training qualification pre N.C.T.E. and not post N.C.T.E.

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Your's faithfully,

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**(Yogendra Kumar Das)**  
S/o Parmeshwar Das  
Village-Rajni, (Pokhar Tola), P.O.-  
Rajni Goth, P.S.-Murliganj, ,  
District-Madhepura.

8-8-12

91

The District Education Officer,  
Madhepura,  
District-Madhepura

**Sub: For implementation of the order dated 24.07.2012 passed in C.W.J.C. No. 11935/12 registered as Yogendra Kumar Das Vs. The State of Bihar & others.**

Sir,

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If the respondents find justification in the claim or in any part of the claim, they are necessarily required to pass appropriate orders on all consequential aspects of service from the date of appointment till disbursement.

In that view of the matter it is just and proper that the aforesaid order may be implemented in true sence and spirit and within time granted by his lordships.

For this I shall ever pray.

**Enclosure :-**

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Your's faithfully,

S2

**(Yogendra Kumar Das)**  
S/o Parmeshwar Das  
Village-Rajni, (Pokhar Tola), P.O.-  
Rajni Goth, P.S.-Murligarj, ,  
District-Madhepura.

8-8-12