

A. K. Pradhan

Vs

State of Bihar and Others

Civil Appeal No. 4032 of 1988

(S. Saghir Ahmed, G. B. Pattanaik JJ)

07.01.1998

ORDER

1. The appellant was the Headmaster of an unrecognised high school which was taken over by the Government of Bihar under Bihar Non-Government Secondary School (Taking Over of Management and Control) Act, 1981 (33 of 1982). The appellant represented to the State Government for regularisation of his services which was not accepted and by order dated 6-12-1985, the Government rejected the prayer of the appellant on the ground that he had not completed seven years of service from the date of taking over of the institution. The appellant then approached the Patna High Court which, relying upon a Full Bench decision of its own, dismissed the petition. That is how the matter is before us.

2. It is pointed out by the learned counsel appearing on behalf of the State of Bihar that the Full Bench decision has since been upheld by this Court in Ram Ballabh Prasad Singh v. State of Bihar (SLPs (C) Nos. 4828-30 of 1986 decided on 5-5-1986 : 1988 PLJR 70) by the following order :

"We affirm the view taken by the High Court to the effect that a Headmaster has no right to be automatically absorbed as a government servant in case of an unrecognised school being taken over by the Government. The special leave petitions are dismissed with these observations.

We are told by the learned counsel that even if the petitioners are liable to be screened by the appropriate committee there should be no delay in completing the screening insofar as the petitioners are concerned. We have no doubt that when these observations are pointed out to the appropriate authority the committee concerned will deal with the matter expeditiously and dispose the same in accordance with law."

3. The controversy, therefore, that the services of the employees working in an unrecognised institution are not automatically taken over by the Government, is to be treated as settled by the order passed in the above petition.

4. The fact, however, remains that the appellant has since completed more than seven years of service and is now eligible and for being considered for regularisation.

5. We, therefore, dispose of this appeal with the observation that the appellant, if not already regularised as Headmaster, shall be considered for regularisation w.e.f. the date on which he completed seven years of service reckoned from the date on which the institution was taken over by the Government. There will be no order as to costs.