

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

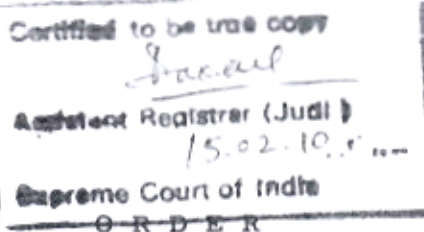
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CIVIL APPEAL NO(s). 796 OF 2008

STATE OF ORISSA & ORS.

VERSUS

PRABHAWATI PADHIHARI



Appellant (s)

Respondent (s)

The third appellant College was established on 4.9.1988. The said college was recognised on 3.2.1990, the recognition being limited to faculties and subjects mentioned therein. On 3.4.1992, the Education Department, Government of India granted concurrence to the opening of new subjects of Sociology and Education and Economics in the third appellant College subject to the condition that the Government shall not bear any financial burden arising out of the opening of the said subjects.

2. The respondent was appointed as a Lecturer in Education in the third appellant College purely on temporary basis. The appointment of respondent was approved by the Governing Body of the third appellant College on 9.9.1994. The respondent filed writ petition (C) No. 9586 of 2005 seeking a direction to the State government to approve her appointment as against the first post of Lecturer in Education and release all consequential service benefits within a reasonable time. In pursuance of the writ petition, the Government of Orissa issued a direction directing the respondent to be appointed as Lecturer in Education in the third appellant College on 9.9.1994.

Government considered the case of the respondent for grant of benefit of grant-in-aid and rejected the claim by order dated 23.07.2002. The reason given for such rejection was that the respondent's post was not eligible for grant-in-aid as on 1.6.1994 and the State Government had extended aid only to those cases where the candidates acquired eligibility before 1.6.1994. Thereafter the respondent approached the High Court with a second writ petition. The High Court by the impugned order dated 28.9.2005 allowed the writ petition, quashed the order dated 23.07.2002 and directed the appellants to approve the appointment of respondent against the post of Lecturer in the third appellant college and release all consequential benefits as was done in the similar situated persons referred in the order. The said order is under challenge in this appeal by special leave.

3. Relying upon the provisions of The Orissa (Non-Government College, Junior Colleges and Higher Secondary Schools) Grant-in-Aid Order, 1994, the appellants contend that the post of respondent was not admissible to grant-in-aid. A reading of Rule 4, Rule 5(2)(A), Rule 9(2)(B)(ii), 9(4) and 10 of the grant-in-aid order discloses the following position:

(a) A women's college functioning regularly for three years or more as on 1.6.1994 after obtaining Government recognition and affiliation of the