

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20636 of 2021**

Shamima Khatoon Wife of Md. Jahid Hussain, R/o Ward No. 13, Pokhar, near  
Middle School Chowk, P.S.- Forbesganj, District-Araria.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Department, Patna.
2. The Human Resource Department through the Principal Secretary, Human Resource Department, New Secretariat, Patna.
3. The Principal Secretary, Human Resource Department, New Secretariat, Patna.
4. The Regional Deputy Director Education, Purnea Division, Purnea.
5. The School Inspector cum Deputy Director Education Bihar, Patna.
6. The Principal, District Education and Training Institute, Forbesganj.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 10022 of 2019**

Neelam Kumari W/o Shri Narendra Kumar Sinha, Resident of Neelam  
Bhawan, Panchwati Colony, P.S.-Beur, District-Patna, Pin-800002

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna
2. Director, Secondary Education, Education Department, Bihar, Patna
3. Director (Administration)-cum-Additional Secretary, Education Department, Bihar, Patna

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 3039 of 2020**

Shanti Kumari wife of Sri Virendra Prasad Singh @ Virendra Kr Singh  
resident of Muhalla- Biratpur P.S. and District- Aurangabad, Bihar- 824101.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Secondary Education, New Secretariat, Patna, Bihar.
2. The Director Secondary Education, Govt. of Bihar, Patna.
3. The Regional Deputy Director, Magadh Division, Gaya.
4. The District Education Officer, Aurangabad.



5. The District Programme Officer Establishment, Aurangabad.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 9536 of 2020**

Asha Singh Wife of Sri Anil Kumar, resident of Bhoothnath Road, Pharmaceuticals Colony, Bahadurpur Housing Colony, Police Station-Bahadurpur, District - Patna at present Assistant Teacher, BNR Training College, Gulzarbagh, Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education.
2. The Director Secondary Education, Bihar, Patna.
3. The Regional Deputy Director of Education, Patna Division, Patna.
4. The District Programme Officer, Establishment, Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 9676 of 2020**

Meena Singh Wife of Uma Shankar Priyadarshi, Resident of House No. 81, Budh Nagar, Road No. 2, Postal Park Chiraiyatand, Police Station-Kankarbagh, District-Patna at Present Assistant Teacher, Govt. Girls Middle School, Danapur, Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department Govt. of Bihar, Patna.
2. The Director Secondary Education, Bihar, Patna.
3. The Regional Deputy Director of Education, Patna Division, Patna.
4. The District Programme Officer, Establishment, Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 9892 of 2020**

Usha Kiran Sinha Wife of Sri Arvind Kumar Singh, Resident of Road No. 24 D Rajiv Nagar, Police Station Rajiv Nagar, District- Patna at present Assistant Teacher, Govt. Girls Middle School, Danapur, Patna..... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Secondary Education, Bihar, Patna.
3. The Regional Deputy Director of Education, Patna Division, Patna.



4. The District Programme Officer, Establishment, Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 10338 of 2020**

Prativa Kumari W/o Krishna Deo Sharma, R/o- Rajabigha, Nawada, P.O.-  
Shadipur, P.S. and District- Nawada, 805104.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. The Director (Administration)- cum- the Additional Secretary Education Department, Vikas Bhawan, New Secretariat, Bihar, Patna- cum- the Disciplinary Authority.
3. The Director Secondary Education Department, Vikas Bhawan, New Secretariat, Bihar, Patna- cum- the Enquiry Officer.
4. The Deputy Secretary Education Department, Govt. of Bihar, Patna- cum- the Enquiry Officer.
5. The Deputy Director Secondary Education Department, Vikas Bhawan, New Secretariat, Bihar, Patna- cum- the Presenting Officer.
6. The C.B.I. Through its Investigating Officer, Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 961 of 2021**

Smt. Poonam Kumari W/o Late Din Mani Sharma R/o Kaali Bari, Nootan  
Nagar, near Konch House, Civil Lines, Gaya, District- Gaya

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department-cum-the Appellate Authority, Bihar, Patna
2. The Director (Administration)-cum-the Additional Secretary, Education Department, Vikas Bhawan, New Secretariat, Bihar, Patna
3. The Director, Secondary Education Department, Govt. of Bihar, Patna
4. The Director (Primary Education) Education Department, Vikas Bhawan, New Secretariat, Bihar, Patna-cum-the Enquiry Officer,
5. The C.B.I. through its Investigating Officer, Patna
6. The Senior Treasury Officer, Gaya
7. The Accountant General Bihar, Veer Chand Patel Path, Patna
8. The State Bank of India through its Branch Manager, Gaya Branch, Gaya

... .. Respondents

with



**Civil Writ Jurisdiction Case No. 4123 of 2021**

Mala Sinha W/O- Shri Kedar Prasad Singh, Previously working as Pradhandhypika in Rajkiya Kanya Middle School, Chailitand Patna City, Patna.

... .. Petitioner

Versus

1. The State of Bihar, Bihar.
2. The Principal Secretary Education Department Govt. of Bihar, Patna.
3. The Director Secondary Education Government of Bihar, Patna.
4. The C.B.I., through its Investigation Officer, Patna.
5. The Regional Deputy Director of Education Patna Pramandal, Patna.
6. The District Education Officer, Patna.
7. The District Programme Officer (Establishment), Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 5011 of 2021**

Shail Kumari W/o Chandrashekhar Prasad, Previously working as Pradhandhypika in Rajkiya Kanya Middle School Kamruddinganj, Biharsharif, Nalanda

... .. Petitioner

Versus

1. The State of Bihar Bihar
2. The Principal Secretary Education Department, Govt. of Bihar, Patna
3. The Director Secondary Education, Government of Bihar, Patna
4. The C.B.I. through its Investigation Officer, Patna
5. The Regional Deputy Director of Education Patna Pramandal, Patna
6. The District Education Officer, Nalanda
7. The District Programme Officer (Establishment) Nalanda

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 7498 of 2021**

Pushpa Kumari wife of Sri Ram Pramod Singh, resident of Village Dihra (Ram Sangh) P.O. Mudhari P.S. Harnaut and Dist. Nalanda Bihar and presently posted at Nawadah Govt. Girls Middle School, Prasad Bigha at P.O. and Dist. Nawadah.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary Secondary Education, New Secretariat Patna Bihar.
2. The Director Secondary Education, Govt. of Bihar, Patna.



3. The Regional Deputy Director, Magadh Division Gaya.
4. The District Education Officer, Gaya.
5. The District Programme Officer (Establishment), Nawadah.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 13989 of 2021**

1. Sanju Kumari, W/o Anil Kumar, Resident of Village - Mozaffara, P.O. - Bardih, P.S. - Islampur, District - Nalanda (Biharsharif) and previously working as an Assistant Teacher in Rajkiya Kanya Madhya Vidyalaya, Kamruddinganj, Biharsharif, Nalanda.
2. Kumari Girija Sinha, W/o Ramdeo Prasad, Resident of Mohalla - Mangala Sthan, P.O. - Biharsharif, P.S. - Laheri, District - Nalanda, and previously working as an Assistant Teacher in Rajkiya Kanya Madhya Vidyalaya, Kamruddinganj, Biharsharif, Nalanda.
3. Kanak Lata, W/o Late Rakesh Ranjan Singh, Resident at Rose-Oxbridge, Kotgust Chowki, Uma Shankar Lane, P.S. - Guljarbagh, Patna City, District - Patna and previously working as an Assistant Teacher in B.N.R. Training College, Patna.
4. Shobha Kumari, D/o Shri Vilash Ray, Resident at B.N.R. Teacher Training College Quarter, Guljarbagh, Patna and previously working as an Assistant Teacher in B.N.R. Training College, Patna.

... .. Petitioners

Versus

1. The State of Bihar, Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The C.B.I., through its Investigation Officer, Patna.
5. The Regional Deputy Director of Education,, Patna Pramandal, Patna.
6. The District Education Officer, Patna.
7. The District Programme Officer (Establishment), Patna.
8. The District Education Officer, Nalanda.
9. The District Programme Officer (Establishment), Nalanda.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 14172 of 2021**

Geeta Kumari W/o- Binod Prasad Sinha Resident of Dipnagar, Road No. 02, Near Shiv Mandir, P.O.- Jhauganj, P.S.- Mehandiganj, District- Patna (Pin Code 800008).

... .. Petitioner

Versus



1. The State of Bihar.
2. The Principal Secretary Education Department, Govt. of Bihar, Patna.
3. The Director Secondary Education, Government of Bihar, Patna.
4. The C.B.I., through its Investigation Officer Patna.
5. The Regional Deputy Director of Education Patna Pramandal Patna.
6. The District Education Officer Patna.
7. The District Programme Officer (Establishment) Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 14254 of 2021**

Dr. Minni Kumari Wife of Sri Sudhir Kumar, Resident of House No. 35, Road No. 21, Rajiv Nagar, P.O. Keshri Nagar, P.S. Rajiv Nagar, District - Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Patna Division, Patna.
5. The District Programme Officer (Establishment), Patna - Cum - Conducting Officer, District - Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 15213 of 2021**

Kamla Kumari W/o - Shri Ramashraya Prasad, Resident of Mohalla - Sonartoli Near Bhadbhadwan Kuan, P.O. and P.S. - Sasaram, District-Sasaram.

... .. Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Secondary, Education Government, of Bihar, Patna.
4. The C.B.I., through its Investigation Officer, Patna.
5. The Regional Deputy Director of Education, Patna Pramandal, Patna.
6. The District Education Officer, Sasaram (Rohtas).
7. The District Programme Officer (Establishment), Sasaram (Rohtas).

... .. Respondents



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with  
**Civil Writ Jurisdiction Case No. 16446 of 2021**

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Ranju Bala Sharan, Wife of Shri Birendra Kumar Sinha, Resident of Koiri Tola, Dariyapur, P.O. - Bankipure, P.S - Pirbhore, District- Patna, Pin Code - 800004.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. Director, Primary Education, Bihar, Patna.
3. Regional Deputy Director of Education, Patna Division, Patna.
4. District Education Officer, Patna.
5. District Programme Officer (Establishment) Patna Division, Patna.

... .. Respondents

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with  
**Civil Writ Jurisdiction Case No. 16457 of 2021**

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Abha Rani Wife of Shri Prit Ranjan Shrivastava, Resident of Shanti Niwas, West of Shalimar Cold Storage, New Harnichak, Phulwari, District- Patna, Pin Code - 800002.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. The Director, Primary Education, Education Department, Bihar, Patna.
3. Regional Deputy Director of Education, Patna Division, Patna.
4. District Education Officer, Patna.
5. District Programme Officer (Establishment), Patna Division, Patna.

... .. Respondents

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with  
**Civil Writ Jurisdiction Case No. 16482 of 2021**

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Shashi Kala Prasad Wife of Shri Awadhesh Kumar, Resident of Late Banwari Sharan, Damaria, P.O. and P.S.- Gardanibagh, District- Patna, Pin Code- 800002.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. Director, Primary Education, Bihar, Patna.
3. Regional Deputy Director of Education, Patna Division, Patna.
4. District Education Officer, Patna.



5. District Programme Officer (Establishment), Patna Division, Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 17834 of 2021**

Radha Devi W/o - Sri Fanindra Kumar Singh, Resident of Mohalla - Bhaduria Bhawan, Guatam Nagar, Gangjala near West of Labour Office, Ward No. - 11, District- Saharsa, Pin Code - 852201 and previously working as an Assistant Teacher in Rajkiya Kanya Madhya Vidyalaya, Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through the Principle Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Secondary, Education Government, of Bihar, Patna.
4. The C.B.I., through its Investigation Officer, Patna.
5. The Regional Deputy Director of Education, Koshi Pramandal, Saharsa.
6. The District Education Officer, Saharsa.
7. The District Programme Officer (Establishment), Saharsa.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 20552 of 2021**

Ranjana Kumari wife of Late Sri Avinash Chandra, resident of Village Juafar Bazar, P.O. Nirpur, P.S. Nalanda and District-Nalanda Bihar and presently posted at Government of Girls Middle School, Jehanabad and District Jehanabad.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary Secondary Education New Secretariat, Patna Bihar.
2. The Director, Secondary Education, Govt. of Bihar, Patna.
3. The Regional Deputy Director, Magadh Division, Gaya.
4. The District Education Officer, Jehanabad.
5. The District Programme Officer (Establishment), Jehanabad.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 20610 of 2021**

Sauda Khatun W/o Ashfaque Alam R/o - Millat Nagar, Ward No. 28, Araria, P.S. and District- Araria.

... .. Petitioner

Versus



1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Regional Deputy Director of Education - cum- the Disciplinary Authority, Purnea Division, Purnea.
3. The District Education Officer - cum- the Enquiry Officer, Araria.
4. The District Programme Officer (Establishment), Education Department - cum- the Presenting Officer, Araria.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 20646 of 2021**

Ragini Dayal W/o Hemant Kumar R/o-02, Near Training School, Ward No.19, Forbisgang, P.S.- Forbisgang, District-Araria-854318.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Regional Deputy Director of Education-cum-the Disciplinary Authority, Purnea Division, Purnea.
3. The District Education Officer-cum-the Enquiry Officer, Araria.
4. The District Programme Officer (Establishment), Education Department-cum-the Presenting Officer, Araria.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 225 of 2022**

Sangita Pandey Wife of Umesh Ojha, Resident of Ward No. 30, Dumuria, Police Station-Kishanganj, District-Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Regional Deputy Director of Education-cum-the Disciplinary Authority, Purnea Division, Purnea.
3. The District Education Officer-cum-the Enquiry Officer, Kishanganj.
4. The District Program Officer (Establishment), Education Department-cum-the Presenting Officer, Kishanganj.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 439 of 2022**

1. Smt. Rita Rani W/o Sri Shyamdeo Bhagat, R/o Munger Road, Jamalpur, P.S.-Jamalpur, Dist.-Munger.
2. Smt. Vimla Kumari, W/o Kamlesh Prasad Gupta, R/o Bekapur, Mayur Chowk, P.S.-Kotwali, Town and Dist-Munger.



3. Smt. Meera Pathak, Wife of Mr. Arun Kumar Jha, Resident of Basghraha, P.O.-Basudeopur, P.S.-Kotwali, Town and District-Munger.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Disciplinary Authority-cum-the Regional Deputy Director of Education, Munger Division, Munger.
3. The District Education Officer, Munger.
4. The District Programme Officer (Establishment), Munger-cum-the Presenting Officer.
5. The District Education Officer Jamui-cum-the Enquiry Officer.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 490 of 2022**

Madhu Kumari Wife of Uday Kumar Resident of Ward No. 3, Babhangama, Police Station- Barauni, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director Secondary Education Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director Education Munger Division, Munger.
5. The District Education Officer, Jamui.
6. The District Programme Officer (Establishment) Munger.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 492 of 2022**

Sadhna Sharma Wife of Biresh Kumar, Resident of Mohalla- Ashok Nagar (Ward No. 40), Pokharia, Police Station- Town, District- Begusarai.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director Secondary Education Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director, Education Munger Division, Munger.
5. The District Education Officer, Jamui.



6. The District Programme Officer (Establishment) Munger.  
... .. Respondents

with

**Civil Writ Jurisdiction Case No. 501 of 2022**

Veena @ Veena Singh, Wife of Vikash Kumar Singh, Resident of Mohalla-  
Near Pratap Apartment, Deoghar, Police Station- Deoghar, District- B.  
Deoghar, Pin- 814112.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department,  
Govt. of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director, Education Munger Division, Munger.
5. The District Education Officer, Jamui.
6. The District Programme Officer (Establishment), Munger.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 564 of 2022**

Ram Kumari, Wife of Ravish Kumar Sharma, Resident of Mohalla-Ward No.  
40, Sarvoday Nagar, Bishnupur, Police Station-Town, District-Begusarai

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department,  
Govt. of Bihar, Patna.
2. The Director Secondary Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director, Education Munger Division, Munger.
5. The District Education Officer, Jamui.
6. The District Programme Officer (Establishment), Munger.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 622 of 2022**

Kanchan Kumari, Wife of Sri Sunil Kumar Yadav, Resident of Mohalla-V.I.P.  
Colony, North Side of Jamui Block, Police Station and P.O.-Jamui, District-  
Jamui.

... .. Petitioner

Versus



1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director Secondary Education, Govt. of Bihar, Patna
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The Regional Deputy Director, Education Munger Division, Munger.
5. The District Education Officer, Jamui.
6. The District Programme Officer (Establishment), Munger.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 687 of 2022**

Meera Devi Wife of Sri Narayan Prasad Sah, resident of Mohalla - G.D. College Road, Pokharia, Police Station- Town, District - Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director Secondary Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director, Education Munger Division, Munger.
5. The District Education Officer, Jamui.
6. The District Programme Officer (Establishment), Munger.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 693 of 2022**

Smt. Tara Singh W/o Baidyanath Singh, Resident of Purab Bazar, Bhagwan Lal Gola, Ward No. 30, P.S. and District-Saharsa, Pin Code-852201.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Disciplinary Authority-cum-the Regional Deputy Director of Education, Koshi Division, Saharsa.
3. The District Education Officer, Saharsa.
4. The District Programme Officer (Establishment), Saharsa cum the Presenting Officer.
5. The District Education Officer, Supaul-cum-the Enquiry Officer.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 4981 of 2022**



1. Rekha Kumari W/o Late Raj Kumar Sinha, R/o - Ward No. 8, Village and P.O.- Sanhauli, P.S. - Chitragupta Nagar, District - Khagaria.
2. Sanjay Bihari Pandit S/o Late Sitabi Pandit, Resident of Saraswati Sangitayalaya, Infront of Workshop, Hospital Road, P.S. and District - Khagaria, Bihar, Pin Code - 851204.

... .. Petitioners

Versus

1. The State of Bihar through its Principle Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Secondary, Education Government of Bihar, Patna.
4. The C.B.I., through its Investigation Officer, Patna.
5. The Regional Deputy Director of Education, Munger Parmandal, Munger.
6. The District Education Officer, Khagaria.
7. The District Education Officer, Lakhisarai.
8. The District Programme Officer (Establishment), Khagaria.
9. The District Programme Officer (Establishment), Lakhisarai.
10. The District Education Officer-cum-Enquiry Officer, Jamui.
11. The District Programme Officer (Establishment)-cum-Presenting Officer, Munger.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 8020 of 2022**

Kamini Kumari W/o Late Mohan Raut, R/o-Ward No.12, G.M. Road, near Income Tax Chowk, P.S.-Darbhanga Sadar, District-Darbhanga-846004.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
2. The Director (Admn)-Cum-the Additional Secretary, Education Deptt. Govt. of Bihar, New Secretariat, Patna-Cum-the Disciplinary Authority.
3. The Deputy Director (Admn), Education Deptt. Govt. of Bihar, New Secretariat, Patna.
4. The Director, Secondary Education Department, Govt. of Bihar, Patna.
5. The Treasury Officer, Darbhanga.
6. The Accountant General, Birchand Patel Path, Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 12800 of 2022**



Usha Kumari Sharma, Wife of Sri Vijay Kumar Sharma, Resident of Mohalla-Krishnapuri, R.N.A.R. College, Police Station-Town, District-Samastipur.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Secretary, Department of Education, Govt. of Bihar, Patna,
3. The Special Secretary-cum-Director (Administration) Department of Education, Govt. of Bihar, Patna.
4. The Director (Administration)-cum-Additional-Secretary Department of Education, Govt. of Bihar, Patna.
5. The Director, primary Education-cum-Enquiry Officer, Education Department, Govt. of Bihar, Patna.
6. The Deputy Director, Secondary Education-Cum-Presenting Officer, Department of Education, Govt. of Bihar, Patna.
7. The Accountant General, Bihar, Patna.
8. The Treasury Officer, Samastipur.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 354 of 2023**

Nirmala Bharti Wife of Late Rajnikant Singh, Resident of Mohalla- Jai Prakash Nagar, A.G. Colony, Police Station- Phulwarisharif, District and Town- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Director, (Administration)- cum- Additional Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
4. The Joint Secretary-cum-Conducting Officer, Education Department, Government of Bihar, Patna.
5. The Senior Executive Officer, Administration and Accounts Department, Bihar Board of Open Schooling and Examination, Patna.
6. The District Provident Fund Officer, Patna.
7. The Accountant General, Bihar, Patna.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 2351 of 2023**



Pushpalata Sinha W/o Om Prakash Prasad, R/o Ward No. 28, Near Pani Tanki, Bari Yusufpur, Hajipur, P.S.-Hajipur, District-Vaishali, PIN-844101.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna,
2. The Disciplinary Authority-cum-the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
3. The District Education Officer, Vaishali-cum-the Enquiry Officer,
4. The District Programme Officer (Establishment), Vaishali-cum-the Presenting Officer,
5. The District Education Officer, Muzaffarpur-cum-the Enquiry Officer.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 2364 of 2023**

Bansuri Acharya D/o Late Paresh Keshre Acharya, W/o Tridib Taran Mukharjee, R/o Tripolia, BNR Road, Bairia, P.S. - Alamganj, Patna - 800007, presently residing at - Subarnalata Apartment, 3rd Floor, Flat No. 5, 68 D D Mondal Ghat Road, Dakshineswar, P.S. - Dakshineswar, North 24 Pargana, West Bengal - 700076.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Disciplinary Authority-cum-the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
3. The District Education Officer, Vaishali-cum-the Enquiry Officer.
4. The District Programme Officer (Establishment), Vaishali-cum-the Presenting Officer.
5. The District Education Officer, Muzaffarpur-cum-the Enquiry Officer.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 5912 of 2023**

Smt. Usha Kiran Kumari Wife of Sri Rajeshwar Prasad Singh, resident of Mathura Bhawan, House No. NY/42, New Yarpur Road, (Janta Road), AmrudiBagicha, P.O.-G.P.O., District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Bihar, Patna.
3. The Director (Administration)-cum-Additional Secretary, Education Department, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Patna.



... .. Respondents

with

**Civil Writ Jurisdiction Case No. 6361 of 2023**

Shubhra Rani W/o Abinash Kumar Srivastava R/o Chetna Nageshwar Lane,  
North of I.T.I. Kalambagh Road, Muzaffarpur, Muzaffarpur, Bihar- 842001.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Disciplinary Authority-cum-the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
3. The District Education Officer, Muzaffarpur- cum- the Enquiry Officer.
4. The District Programme Officer (Establishment), Muzaffarpur- cum- the Presenting Officer.

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 7808 of 2023**

Bibha Rani @ Vibha Rani W/o Shri Rakesh Kumar Singh, R/o Professor  
Colony, Aghoriya Bazar, Madhu Niketan (Near LNT College) Muzaffarpur,  
District- Muzaffarpur, Bihar- 842001.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Disciplinary Authority-cum-the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
3. The District Education Officer, Muzaffarpur-cum- the Enquiry Officer.
4. The District Programme Officer (Establishment), Muzaffarpur-cum- the Presenting Officer.

... .. Respondents

**Appearance :**

(In Civil Writ Jurisdiction Case No. 20636 of 2021)

For the Petitioner : Ms. Manini Jaiswal, Advocate

For the Respondents : Ms. Binita Singh, SC-28

Mr. Kumaresh Singh, AC to SC-28

(In Civil Writ Jurisdiction Case No. 10022 of 2019)

For the Petitioner : Mr. Abhinav Srivastava, Advocate

For the Respondents : Mr. Madhaw Prasad Yadav, GP-23

Ms. Meera Singh, AC to GP-23

(In Civil Writ Jurisdiction Case No. 3039 of 2020)

For the Petitioner : Mr. Mritunjay Kumar Singh, Advocate

For the Respondents : Mr. Madhaw Prasad Yadav, GP-23

Ms. Meera Singh, AC to GP-23

(In Civil Writ Jurisdiction Case No. 9536 of 2020)

For the Petitioner : Mr. Jitendra Prasad Singh, Advocate

For the Respondents : Mr. Prabhakar Jha, GP-27



Mr. Umesh Narayan Dubey, AC to GP-27  
(In Civil Writ Jurisdiction Case No. 9676 of 2020)  
For the Petitioner : Mr. Jitendra Prasad Singh, Advocate  
For the Respondents : Mr. Madhaw Prasad Yadav, GP-23  
Ms. Meera Singh, AC to GP-23  
(In Civil Writ Jurisdiction Case No. 9892 of 2020)  
For the Petitioner : Mr. Jitendra Prasad Singh, Advocate  
For the Respondents : Mr. Madhaw Prasad Yadav, GP-23  
Ms. Meera Singh, AC to GP-23  
(In Civil Writ Jurisdiction Case No. 10338 of 2020)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Mr. Madhaw Prasad Yadav, GP-23  
Ms. Meera Singh, AC to GP-23  
(In Civil Writ Jurisdiction Case No. 961 of 2021)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Mr. S.S. Tiwary, AC to AAG-13  
(In Civil Writ Jurisdiction Case No. 4123 of 2021)  
For the Petitioner : Mr. Rama Kant Singh, Advocate  
For the Respondents : Mr. Madanjeet Kumar, GP-20  
(In Civil Writ Jurisdiction Case No. 5011 of 2021)  
For the Petitioner : Mr. Rama Kant Singh, Advocate  
For the Respondents : Mr. Umesh Narayan Dubey, AC to GP-27  
(In Civil Writ Jurisdiction Case No. 7498 of 2021)  
For the Petitioner : Mr. Sanjay Kumar Griyaghey, Advocate  
For the Respondents : Mr. Umesh Narayan Dubey, AC to GP-27  
(In Civil Writ Jurisdiction Case No. 13989 of 2021)  
For the Petitioner : Mr. Rama Kant Singh, Advocate  
For the Respondents : Ms. Shilpa Singh, GA-12  
(In Civil Writ Jurisdiction Case No. 14172 of 2021)  
For the Petitioner : Mr. Rama Kant Singh, Advocate  
For the Respondents : Ms. Binita Singh, SC-28  
Mr. Kumaresh Singh, AC to SC-28  
(In Civil Writ Jurisdiction Case No. 14254 of 2021)  
For the Petitioner : Mr. Awnish Kumar, Advocate  
For the Respondents : Mr. S.K. Ranjan, AC to GP-17  
(In Civil Writ Jurisdiction Case No. 15213 of 2021)  
For the Petitioner : Mr. Rama Kant Singh, Advocate  
For the Respondents : Ms. Binita Singh, SC-28  
Mr. Kumaresh Singh, AC to SC-28  
(In Civil Writ Jurisdiction Case No. 16446 of 2021)  
For the Petitioner : Mr. Abhinav Srivastava, Advocate  
For the Respondents : Mr. Madanjeet Kumar, GP-20  
(In Civil Writ Jurisdiction Case No. 16457 of 2021)  
For the Petitioner : Mr. Abhinav Srivastava, Advocate  
For the Respondents : Mr. Madanjeet Kumar, GP-20  
(In Civil Writ Jurisdiction Case No. 16482 of 2021)  
For the Petitioner : Mr. Abhinav Srivastava, Advocate  
For the Respondents : Ms. Shilpa Singh, GA-12  
(In Civil Writ Jurisdiction Case No. 17834 of 2021)  
For the Petitioner : Mr. Rama Kant Singh, Advocate  
For the Respondents : Mr. Subash Chandra Mishra, SC-16  
(In Civil Writ Jurisdiction Case No. 20552 of 2021)  
For the Petitioner : Mr. Mritunjay Kumar Singh, Advocate  
For the Respondents : Mr. Madanjeet Kumar, GP-20  
(In Civil Writ Jurisdiction Case No. 20610 of 2021)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Mr. Jitendra Kr. Roy 1, SC-13



Ms. Usha Kumari Singh, AC to SC-13  
(In Civil Writ Jurisdiction Case No. 20646 of 2021)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Mr. Kameshwar Kumar, GP-17  
(In Civil Writ Jurisdiction Case No. 225 of 2022)  
For the Petitioner : Mr. Radha Mohan Singh, Advocate  
For the Respondents : Mr. Kameshwar Kumar, GP-17  
(In Civil Writ Jurisdiction Case No. 439 of 2022)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Mr. Madhaw Prasad Yadav, GP-23  
Ms. Meera Singh, AC to GP-23  
(In Civil Writ Jurisdiction Case No. 490 of 2022)  
For the Petitioner : Mr. Kundan Kumar Sinha, Advocate  
For the Respondents : Mr. Madanjeet Kumar, GP-20  
(In Civil Writ Jurisdiction Case No. 492 of 2022)  
For the Petitioner : Mr. Kundan Kumar Sinha, Advocate  
For the Respondents : Mr. Umesh Narayan Dubey, AC to GP-27  
(In Civil Writ Jurisdiction Case No. 501 of 2022)  
For the Petitioner : Mr. Kundan Kumar Sinha, Advocate  
For the Respondents : Mr. Madhaw Pd. Yadav, GP-23  
Ms. Meera Singh, AC to GP-23  
(In Civil Writ Jurisdiction Case No. 564 of 2022)  
For the Petitioner : Mr. Kundan Kumar Sinha, Advocate  
For the Respondents : Mr. Kameshwar Kumar, GP-17  
(In Civil Writ Jurisdiction Case No. 622 of 2022)  
For the Petitioner : Mr. Kundan Kumar Sinha, Advocate  
For the Respondents : Mr. Jitendra Kr. Roy 1, SC-13  
(In Civil Writ Jurisdiction Case No. 687 of 2022)  
For the Petitioner : Mr. Kundan Kumar Sinha, Advocate  
For the Respondents : Mr. Subhash Chandra Mishra, SC-16  
(In Civil Writ Jurisdiction Case No. 693 of 2022)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Ms. Binita Singh, SC-28  
Mr. Kumaresh Singh, AC to SC-28  
(In Civil Writ Jurisdiction Case No. 4981 of 2022)  
For the Petitioner : Mr. Rama Kant Singh  
For the Respondents : Mr. Kameshwar Kumar (Gp17)  
(In Civil Writ Jurisdiction Case No. 8020 of 2022)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Ms. Binita Singh, SC-28  
Mr. Kumaresh Singh, AC to SC-28  
For the AG : Mr. Raj Nandan Prasad, Advocate  
Mr. Vishesh Kumar Singh, Advocate  
(In Civil Writ Jurisdiction Case No. 12800 of 2022)  
For the Petitioner : Mr. Kundan Kumar Sinha, Advocate  
For the Respondents : Mr. Jitendra Kumar Roy 1, SC- 13  
For Accountant General : Mr. Ram Kinker Choubey, Advocate  
(In Civil Writ Jurisdiction Case No. 354 of 2023)  
For the Petitioner : Mr. Ram Sagar Singh, Advocate  
For the Respondents : Mr. Madan Jeet Kumar, GP- 20  
(In Civil Writ Jurisdiction Case No. 2351 of 2023)  
For the Petitioner : Mr. Avanindra Kumar Jha, Advocate  
For the Respondents : Mr. Kameshwar Kumar, GP- 17  
(In Civil Writ Jurisdiction Case No. 2364 of 2023)  
For the Petitioner : Mr. Purushottam Kumar Jha, Advocate  
For the Respondents : Ms. Binita Singh, SC-28  
Mr. Kumaresh Singh, AC to SC-28



(In Civil Writ Jurisdiction Case No. 5912 of 2023)

For the Petitioner : Mr. Lala Sheshendra Narayan Rai, Advocate

For the Respondents : Mr. Jitendra Kr. Roy 1, SC-13

(In Civil Writ Jurisdiction Case No. 6361 of 2023)

For the Petitioner : Mr. Jitendra Acharya, Advocate

For the Respondents : Mr. Jitendra Kr. Roy 1, SC-13

(In Civil Writ Jurisdiction Case No. 7808 of 2023)

For the Petitioner : Mr. Purushottam Kumar Jha, Advocate

For the Respondents : Ms. Binita Singh, SC-28

Mr. Kumaresh Singh, AC to SC-28

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**CAV JUDGMENT**

**Date : 26-09-2023**

In this batch of writ applications, three categories of cases have come up for consideration. In category-I, this Court would place those writ applications in which the writ petitioners are seeking a writ in the nature of certiorari to quash their respective impugned orders by which the respondents have forfeited the pension as well as other retiral benefits of the petitioners. They are seeking a direction to the respondents to make payment of the pension and the other retirement benefits to the petitioners.

2. In category-II, the writ petitioners are those who have been inflicted with the punishment of dismissal from service. They are seeking setting aside of the impugned orders and the consequential benefits to the petitioners.

3. In category-III, the writ petitioners are those who have been served with a second show cause notice whereby they



have been made available a copy of the inquiry report and have been asked to submit their response to disciplinary authority.

4. This Court would first deal with category I cases. The following writ applications would be covered under category I:-

01. CWJC No. 20636 of 2021, Shamima Khatoun vs. State of Bihar & Ors.

02. CWJC No. 20610 of 2021, Sauda Khatun vs. State of Bihar & Ors.

03. CWJC No. 20646 of 2021, Ragini Dayal vs. State of Bihar & Ors.

04. CWJC No. 961 of 2021, Smt. Poonam Kumari vs. State of Bihar & Ors.

05. CWJC No. 14172 of 2021, Geeta Kumari vs. State of Bihar & Ors.

06. CWJC No. 15213 of 2021, Kamla Kumari vs. State of Bihar & Ors.

07. CWJC No. 16457 of 2021, Abha Rani vs. State of Bihar & Ors.

08. CWJC No. 16482 of 2021, Shashi Kala Prasad vs. State of Bihar & Ors.

09. CWJC No. 225 of 2022, Sangita Pandey vs. State of Bihar & Ors.

10. CWJC No. 8020 of 2022, Kamini Kumari vs. State of Bihar & Ors.

11. CWJC No. 12800 of 2022, Usha Kumari Sharma vs. State of Bihar & Ors.

12. CWJC No. 2351 of 2023, Pushplata Sinha vs. State of Bihar & Ors.

13. CWJC No. 2364 of 2023, Bansuri Acharya vs. State of Bihar & Ors.

14. CWJC No. 5912 of 2023, Smt. Usha Kiran Kumari vs. State of Bihar & Ors.

15. CWJC No. 6361 of 2023, Shubhra Rani vs. State of Bihar & Ors.

16. CWJC No. 10022 of 2019, Neelam Kumari vs. State of Bihar & Ors.

17. CWJC No. 7808 of 2023, Bibha rani vs. State of Bihar & Ors.



5. On the request of the parties, this Court has taken up C.W.J.C. No. 20636 of 2021, listed at serial no. 1 (Shamima Khatoon vs. State of Bihar and others) as the lead case. For brevity sake, this Court is not taking note of the various memo numbers and dates in different writ applications at this stage, however, those will be referred to at appropriate stage. This Court would refer them as impugned office order(s).

**Case of the Petitioners-Category-I**

6. It is the case of the petitioner(s) that they were appointed on the post of assistant teachers in different districts as back as in the year 1982. One Kaushal Kumar filed a Public Interest Litigation in this Court vide C.W.J.C. No.10002 of 2016, alleging that a large number of irregularities have taken place in the matter of appointment of Assistant Teachers in Lower Subordinate Education Service (in short 'LSS'). The Hon'ble Division Bench while hearing C.W.J.C. No.10002 of 2016, passed the order dated 19.06.2016 by which the authorities of the Department of Education, Government of Bihar including the Principal Secretary, Department of Education were called upon to appear in person with an explanation by way of affidavit as to why necessary action has not been taken by the State-respondents on the report of the C.B.I. and what action has been taken against



those persons who have made illegal appointments. The Hon'ble Division Bench, however, observed as follows:-

“We make it clear that no termination of service of teachers shall take place pursuant to the report of the C.B.I. without giving notice to the teachers concerned and without following the due process of law.”

7. It is stated that in fact the matter relating to appointment of Assistant Teachers during the said period were subject matter of inquiry by the Central Bureau of Investigation (in short 'C.B.I.' or 'CBI'). C.B.I. had submitted a report after examining the appointments of 'LSS' by different appointing authorities during the period 1980-1998. The report of the CBI indicated that large number of appointments were made without any advertisement of the post in any local newspaper, no roster clearance was obtained, reservation rules were not followed and there was no proceeding of any selection committee for selection of the candidates. Some of the appointments were made of the candidates who were over aged and appointing authorities were not even competent to make regular appointments.

8. The report submitted by the CBI revealed that in certain cases, the applicants who did not possess the required qualification of Matric Trained Teachers, were appointed in lower scale of Matric Untrained Teachers and subsequently, upon acquiring the Matric Trained Qualification, they were given the



scale of Matric Trained Teachers by the concerned appointing authorities. In most of the cases, the candidates submitting the application for appointment as LSS teachers had declared his poverty, poor economic conditions, being widow, being divorcee or deserted by husband, etc. as such circumstances for their appointment to the post of LSS teachers which were considered and taken into account for their appointment on the recommendation of the politicians. So far as the petitioners in the first category are concerned, the petitioner, namely, Shamima Khatoon was served with a show cause notice pointing out that her appointment has been found irregular by the CBI and directions have been issued to take action in the light of the report of the CBI, therefore, she should submit her show cause within a period of three days. Vide memo no. 710 dated 01.10.2016, her service was terminated in view of the report of the CBI.

9. Similar orders were issued to the other writ petitioners and their services were terminated. It is stated that the order terminating the services of the petitioners were challenged in this Court vide C.W.J.C. No.17547 of 2016 and other analogues matters. All those writ applications came to be considered by the learned Writ Court. In C.W.J.C. No.17904 of 2016, this Court found that the decision making process was faulty, therefore, set



aside the order terminating the services of the petitioners and the same judgment was followed by the learned Writ Court in C.W.J.C. No.17438 of 2016 and other analogues cases. However, while disposing of the writ application, the learned Writ Court observed a follows:-

“This order, however, could not preclude the Regional Deputy Director of Education concerned to proceed afresh but in accordance with law and pass appropriate order after affording appropriate opportunity ..... The petitioners on being served notice would corporate in expeditious disposal of he matter.”

**10.** After setting aside of the order of dismissal of the petitioners, they were reinstated in service and were paid their salaries.

**Fresh Steps- Show Cause Notices**

**11.** The Regional Deputy Director (in short ‘RDD’), however, once again issued show cause notice to the petitioners which the petitioners replied. By the order of the RDD, a departmental proceeding was initiated against the petitioners. The petitioners were made available a copy of the remarks made by the CBI and it was alleged that their initial appointment was made without advertisement, without roster clearance or without interview. A copy of the memo served upon the petitioner Smt. Shamima Khatoon has been placed on record and the same is being reproduced hereunder for a ready reference:-



## “आरोप पत्र

प्रपत्र 'क'

आरोपित कर्मचारी का नाम :- श्रीमती समीमा खातुन  
 पदनाम :- सहायक शिक्षिका (निम्न अवर शिक्षा सेवा)  
 पदस्थापन का स्थान:- म0 प्र0 शि0 शि0 महावि0 (अभ्यास पाठशाला)  
 फारबिसगंज, अरधिया  
 वेतनमान :- 9300-34800-4800 /-  
 नियुक्ति तिथि :- 10.02.1982  
 सेवा निवृत्ति तिथि :- 31.12.2020

क्रमांक	अरोप	आरोप का विवरण	साक्ष्य
01	नियुक्ति में अनियमितता	बिना उचित प्रक्रिया अपनाए आपकी सीधी नियुक्ति की गई। किसी स्थानीय समाचार पत्र एवं नियोजनालय द्वारा इस पद के लिए कोई विज्ञापन नहीं निकाला गया। रोस्टर क्लीयरेन्स प्राप्त नहीं कराया गया और आरक्षण नियमों का अनुपालन नहीं किया गया। चयन समिति द्वारा नियुक्ति हेतु कोई अन्तर्वीक्षा/जाँच संबंधी कार्यवाही नहीं की गई।	सी0बी0आई0 रिपोर्ट (केन्द्रीय अन्वेषण ब्यूरो) का जाँच प्रतिवेदन

ह0 / -

28.08.2017

श्रेत्रीय शिक्षा उप निदेशक,

पूर्णिमा प्रमण्डल, पूर्णियाँ”

12. The petitioners claimed that they appeared before the District Programme Officer and submitted that they were appointed pursuant to the notice published in the school. Their appointments have taken place against the sanctioned vacant post. The petitioner Shamima Khatoon, however, retired from service on 31.12.2020 during the pendency of the departmental proceeding. On 08.04.2021 the petitioner filed a second show cause reply, however, keeping aside the reply of the petitioner, the impugned order forfeiting the pensionary benefits of the petitioner and others was issued. A copy of the impugned office order is Annexure '15' to the writ application (in C.W.J.C. No.



20636 of 2020) and the same is being reproduced hereunder for a ready reference:-

“कार्यालय: क्षेत्रीय शिक्षा उप निदेशक, पूर्णियाँ प्रमण्डल, पूर्णियाँ

कार्यालय-आदेश

निदेशक, (माध्यमिक शिक्षा), शिक्षा विभाग, बिहार, पटना के पत्रांक 1654 दिनांक 19.12.2014 के अनुसार माननीय उच्च न्यायालय के आदेश से केन्द्रीय अन्वेष ब्यूरो के द्वारा निम्न अवर शिक्षा सेवा (महिला संवर्ग) में वर्ष- 1980 से की गई नियुक्ति की जाँच करायी गयी। सी0बी0आई0 द्वारा कुल- 278 अनियमित रूप से नियुक्त शिक्षिकाओं पर कार्रवाई की अनुशंसा प्राप्त हुई, जिसके आलोक में विभाग द्वारा नियंत्रण पदाधिकारी विद्यालय निरीक्षिका – सह उप निदेशिका, पटना को कार्रवाई करने का निर्देश दिया गया। पूर्व विद्यालय निरीक्षिका-उप निदेशिका का प्रतिवेदन के अनुसार 184 अवैध रूप से नियुक्त शिक्षिकाओं से कारण पृच्छा की गयी थी, परन्तु विद्यालय निरीक्षिका-सह-उप निदेशिका के कार्यालय को भंग कर उसके कर्तव्यों एवं दायित्वों को क्षेत्रीय शिक्षा उप निदेशक के मध्य स्थानान्तरित करने के उपरान्त क्या कार्रवाई हुई, के संबंध में उक्त विभागीय पत्र के द्वारा एक स्पष्ट प्रतिवेदन की मांग की गई। पुनः विभागीय पत्रांक 38 दिनांक 08.01.2015 के द्वारा एक सप्ताह के अंदर वांछित प्रतिवेदन की मांग की गई। उक्त पत्रों के आलोक में इस कार्यालय के पत्रांक 07 दिनांक 22.01.2015 के द्वारा वस्तुस्थिति की जानकारी विभाग को समर्पित किया गया।

निदेशक, माध्यमिक शिक्षा, शिक्षा विभाग, बिहार, पटना के पत्रांक 1274 दिनांक 17.08.2016 द्वारा केन्द्रीय अन्वेषण ब्यूरो के जाँच-प्रतिवेदन के आलोक में की गई कार्रवाई के संबंध में प्रतिवेदन की माँग की गयी। जिसे इस कार्यालय के पत्रांक 130 दिनांक 19.08.2016 के द्वारा विभाग में समर्पित की गई। साथ ही इस कार्यालय के पत्रांक 595, 596, 597 दिनांक 22.08.2016 एवं 702 दिनांक 29.09.2016 के द्वारा शिक्षिका से उनके अनियमित नियुक्ति के संबंध में कारण पृच्छा की गई। उक्त शिक्षिकाओं से प्राप्त स्पष्टीकरण की समीक्षा से पता चला कि उनकी नियुक्ति में निर्धारित प्रक्रिया का पालन नहीं किया गया था। उक्त स्थिति में इस कार्यालय के ज्ञापांक – 604 दिनांक 24.08.2016 एवं ज्ञापांक-710 दिनांक – 01.10.2016 के द्वारा उक्त निम्नांकित शिक्षिकाओं की सेवा समाप्त कर दी गयी थी।

क्रमांक	सी0बी0आई0 का सूची क्रमांक	शिक्षिकाओं का नाम	पदनाम	विद्यालय का नाम
01	154	श्रीमती रागिनी दयाल	स0शि0	म0प्रा0शि0शि0महाविद्यालय, अभ्यास पाठशाला, फारबिसगंज, अररिया।
02	224	श्रीमती सउदा खातुन	स0शि0	राजकीय कन्या मध्य विद्यालय, अररिया
03	225	श्रीमती संगीता पाण्डेय	"	राजकीय कन्या मध्य विद्यालय, किशनगंज
04	28	श्रीमती समीमा खातुन	"	म0प्रा0शि0शि0महाविद्यालय, अभ्यास पाठशाला, फारबिसगंज, अररिया।

अब इस आदेश के विरुद्ध प्रभावित शिक्षिकाओं के द्वारा माननीय उच्च न्यायालय, पटना में सी0डब्लू0जे0सी0 15713/2016 प्रेमा कुमारी एवं अन्य बनाम राज्य सरकार एवं अन्य में दिनांक 17.01.2017 को पारित आदेश एवं [16487/2016](#) संगीता पाण्डेय एवं अन्य बनाम राज्य सरकार एवं अन्य में दिनांक 17.01.2017 को पारित आदेश तथा [17547/2016](#) समीमा खातुन एवं अन्य बनाम राज्य सरकार एवं अन्य में दिनांक 21.02.2017 को पारित आदेश के आलोक में अधोहस्ताक्षरी कार्यालय के ज्ञापांक 88 दिनांक 13.02.2017 एवं ज्ञापांक 124 दिनांक 04.03.2017 द्वारा आवेदकों की सेवा उनके पद पर पुनः स्थापित कर दिये जाने (**Restored to their respective posts**) के आदेश के साथ रीट पेटिशन को स्वीकृत कर लिया गया।

माननीय उच्च न्यायालय, पटना के उक्त आदेश के आलोक में ही इस कार्यालय के ज्ञापांक 491 दिनांक 28.08.2017 एवं ज्ञापांक 492 दिनांक 28.08.2017 द्वारा संबंधित शिक्षिकाओं पर आरोप पत्र प्रपत्र 'क' गठित करते हुए क्रमशः जिला कार्यक्रम पदाधिकारी, स्थापना, अररिया/किशनगंज को उपस्थापन पदाधिकारी एवं जिला शिक्षा पदाधिकारी, अररिया/किशनगंज को जाँच पदाधिकारी नियुक्त किया गया। जिला शिक्षा पदाधिकारी, अररिया-सह-जाँच पदाधिकारी के पत्रांक 103 दिनांक 12.02.2021 एवं जिला शिक्षा पदाधिकारी, किशनगंज-सह-जाँच पदाधिकारी के पत्रांक 84 दिनांक 05.02.2021 द्वारा आरोपित शिक्षिकाओं के विरुद्ध संचालित विभागीय कार्यवाही प्रतिवेदन समर्पित किया गया। प्राप्त जाँच प्रतिवेदन पर दिये गये मंतव्य के आलोक में इस कार्यालय के पत्रांक 167 दिनांक 10.02.2021 पत्रांक 204 दिनांक 17.02.2021 पत्रांक 205 दिनांक 17.02.2021 एवं पत्रांक 206 दिनांक 17.02.2021 द्वारा आरोपित शिक्षिकाओं से द्वितीय कारण पृच्छा की गई आरोपित शिक्षिकाओं द्वारा द्वितीय बचाव अभिकथन अधोहस्ताक्षरी कार्यालय के समर्पित किया गया। उनसे प्राप्त



स्पष्टीकरण की समीक्षा की गयी। समीक्षा के क्रम में सी0बी0आई0 जाँच रिपोर्ट, संचालित विभागीय कार्यावाही एवं आरोपित शिक्षिकाओं के बचाव अभिकथन पर नियमानुसार गहन मंथन किया गया और पाया गया कि सी0बी0आई0 के जाँच रिपोर्ट/आरोपों के बचाव के संबंध में आरोपित शिक्षिकाओं द्वारा कोई ठोस साक्ष्य नहीं उपलब्ध कराया गया है। जाँच पदाधिकारी एवं उपस्थापन पदाधिकारी ने भी अपने मंतव्य में इसका उल्लेख किया है। इस तरह सी0बी0आई0 जाँच रिपोर्ट में अंकित मूद्दे (विज्ञापन का प्रकाशन नहीं होना, रोस्टर क्लीयरेंस नहीं होना एवं आरक्षण की नियम का पालन नहीं होना आदि) प्रमाणित होते हैं इस प्रकार नियुक्ति के शर्तों का अनुपालन नहीं किये जाने के कारण उक्त सभी शिक्षिकाओं की नियुक्ति अवैध पायी गई है।

अतः उक्त स्थिति में बिहार पेशन नियमावली-43 (बी)/139 के तहत इनके शत-प्रतिशत पेशन, उपादान एवं अर्जितावकाश के बदले मिलने वाली नगद राशि को जब्त किया जाता है। यदि उक्त राशि का इन्हें कुछ भी भुगतान किया गया हो, तो संबंधित निकासी एवं व्ययन पदाधिकारी एवं जिला शिक्षा पदाधिकारी नियमानुसार उसकी वसूली भी सुनिश्चित करेंगे।

इसके साथ ही उपर क्रमांक - 01 से 04 तक अंकित सभी शिक्षिकाओं के विरुद्ध संचालित विभागीय कार्यावाही को निष्पादित किया जाता है।

ह0/-

क्षेत्रीय शिक्षा निदेशक,  
पूर्णिया प्रमंडल पूर्णियाँ।

ज्ञापांक 1161 पूर्णियाँ, दिनांक 23/11/2021”

**13.** The impugned order has been assailed by the petitioners on the ground that the CBI has adopted a discriminatory approach in preparing and submitting the report dated 04.12.2004 which deals with the cases of 304 Teachers of LSS cadre. It is submitted that CBI has reported that 251 Assistant Teachers were irregularly appointed, appointment of 28 Teachers have been held regular, records of 17 Assistant Teachers were not available and the records of 3 Assistant Teachers who were terminated were not available. Similar was the case in respect of 5 Assistant Teachers who were held irregular but the records were not available. Learned counsel for the petitioners submits that the CBI has held 28 appointments as regular but in those appointments manifold irregularities are existing which are akin to the cases of 251 Teachers. According to the petitioners there is no basic difference in between the cases of said 28 Teachers and 251



Teachers but the CBI held the appointment of said 28 Teachers as regular and thereby the appointment of the said 251 Teachers have been held as irregular. This has been called a completely arbitrary and discriminatory approach on the part of the CBI and that according to the petitioners would vitiate the report of the CBI.

**14.** It is submitted that one grave illegality which has been committed by the CBI is evident from bare perusal of the entries made in the 84 Assistant Teachers named at various serial numbers who have been declared as irregular appointees in spite of the fact that in concerned column of the said 84 Teachers, it has been clearly mentioned that “records are not available”.

**15.** It is submitted that the order of punishment has been passed against the petitioners solely on the basis of the said CBI report dated 04.12.2004, therefore, the order of punishment is in the teeth of the order dated 19.09.2016 passed in C.W.J.C. No. 10002 of 2016 by the Hon’ble Division Bench of this Court. The petitioners relied upon the observations of the Hon’ble Division Bench of this Court wherein it has been stated that no termination of service of Teachers shall take place pursuant to the report of CBI without giving notices to the teacher(s) concerned and without following due process of law.



**16.** It is submitted that the punishment orders are also in teeth of the judgment of this Court passed on 17.01.2017 in C.W.J.C. No. 17904 of 2016. (**Shanti Kumari Vs. State of Bihar & Ors.**)

**17.** Learned counsel for the petitioners submits that the respondents have not acted in accordance with the Rule 17(4) and 17(5) of the Bihar Government Servants (Classification, Control & appeal) Rules 2005 (hereinafter referred to as the 'Service Rules') in the matter of initiation of the departmental proceeding right from the stage of framing of memorandum of charge until the conclusion of the same and the same is in the teeth of the provisions of the Service Rules.

**18.** Learned counsel has also relied upon the statement made by CBI in paragraph '10' of its' affidavit dated 09.12.2019 filed in WP(S) No. 5669 of 2018 before the Hon'ble Jharkhand High Court at Ranchi in which it is stated that the appointees were not examined during CBI inquiry. It is submitted that in case of similarly situated Teacher like these petitioners, the Hon'ble Jharkhand High Court had been pleased to allow WP (S) No. 6023 of 2018 which has been affirmed by the Hon'ble Division bench of Jharkhand High Court vide order dated 02.03.2023 in L.P.A.No. 141 of 2021.



**19.** Learned counsel submits that on a bare perusal of the orders passed by the Hon'ble Jharkhand High Court it would appear that in the said case it has been held that as per Rule 97 (xi) of the Bihar Education Code, the District School Inspectress was the competent authority for appointment of Assistant Teachers in the pay-scale of Rs. 50-90/-

**20.** It is further submitted that the charges levelled against the petitioners related to the periods of the year 1982 onwards, therefore, no proceeding under the Bihar Pension Rules could have been initiated against the petitioners. Reliance in this regard has been placed on the judgment of the Hon'ble Supreme Court in the case of **State of M.P. v. Bani Singh** reported in **1990 Supp SCC 738**, **State of Andhra Pradesh Vs. N. Radhkrishnana** reported in **(1998) 4 SCC 154**, **Union of India and Ors. vs. Kishorill Bablani** reported in **AIR 1999 SC 517** and **P.V. Mahadevan v. Managing Director, T.N. Housing Board** reported in **(2005) 6 SCC 636**.

**21.** It is further submitted that after initial appointment of the petitioners, the authorities concerned had granted all due benefits to the petitioners like regular employees and the appointment of all the petitioners had been made by the competent authority against the sanctioned and vacant post as also



they were having requisite qualifications for the post of Assistant Teachers (in LSS Cadre) they were appointed by virtue of Notice Board Advertisement.

### **Stand of the Respondents**

**22.** Contrary to the stand of the petitioners, the State-respondents have filed a counter affidavit in which the following stand has been taken:-

(i). The petitioner has been duly proceeded against in a departmental proceeding and they have been given opportunity of hearing by serving show cause and affording opportunity to them to participate in the inquiry. The petitioners were also served with the inquiry report and second show cause notice was served upon them. It is submitted by the State-respondents that the impugned order has been passed under Rule 43(b) of the Pension Rules because the petitioner had retired on 31.12.2020. The departmental proceeding had been converted into a proceeding under Rule 43(b) of the Pension Rules vide memo no. 08 dated 05.01.2021 as contained in Annexure 'A' to the counter affidavit.

**23.** The State-respondents have submitted that the petitioners' appointment was done without proper advertisement in the local newspaper without any test or interview or without any



roster clearance. It was a backdoor entry, they did not conform to Articles 14 and 16 of the Constitution of India. The appointment was *void ab-initio* in law.

24. Learned counsel for the State has submitted that the ratio of the judgment of the Hon'ble Apex Court in the case of **State of Karnataka v. Umadevi** (3) reported in (2006) 4 SCC 1 clearly says that an appointment made contrary to Articles 14 and 21 of the Constitution of India *dehors* the rules would be illegal appointments and those will be distinguishable from irregular appointments and they are like a still born child who can never be infused with life. Thus, the labelling of 'Irregular' Illegal or Regular appointments in its' report by CBI is not significant. These appointments are to be put in appropriate category as understood in legal parlance.

25. Relying upon the judgment of the Hon'ble Full Bench of this Court in the case of **Ram Sevak Yadav vs. The State of Bihar and others** reported in 2013 1 PLJR 964, learned counsel for the State submits that the Hon'ble Full Bench of this Court has declared that an illegal appointment *void ab-initio* made contrary to the mandate of Article 14 without open competitive selection process is *void ab-initio* and cannot be regularized under any circumstance.



**26.** The State-respondents have further submitted that in C.W.J.C. No.9847 of 1998 (**Brajesh Kumar Singh and others vs. State of Bihar and others**), vide order dated 16.12.2019 there was a direction to the CBI to carry on an investigation in the matter of appointments/ promotion of LSS (women cadre) who were appointed from 1980 to 1998. CBI submitted its report on 09.11.2004 before the Chief Secretary, Government of Bihar, Patna against 305 teachers in which appointment of only 27 teachers were found regular whereas appointment of 278 teachers were found to be illegal/ irregular, and therefore, recommendations were made for taking action against illegally/ irregularly appointed teachers and also against those officers who had made such appointments. As per report of the CBI, there was no advertisement in most of the cases, no roster clearance were obtained and no reservation rules were followed.

**27.** It is submitted that in the year 2011, the power and function of Inspectress of Schools-cum-Deputy Director of Education was merged with the post of Regional Deputy Director of Education. The Director, Secondary Education, Bihar, Patna issued a direction vide letter no. 1674 dated 17.08.2016 to all Regional Deputy Director of Education to locate such LSS teachers (women cadre) who were appointed during the period



1980-1998 and take legal action in accordance with law. Pursuant thereof, second show cause notice was issued to the petitioners and after careful consideration of the reply filed by the petitioners and scrutinizing the CBI report, the then Regional Deputy Director terminated the services of the petitioners which termination orders were challenged in several writs and those writ petitions were also heard together and orders of termination were set aside/ quashed. By virtue of termination, their services were restored but this reinstatement was with liberty granted to the respondents to proceed afresh in accordance with law.

**28.** It is submitted that one of the candidates in this regard, namely, Neelam Kumari (C.W.J.C. No.10022 of 2019) whose name appears at serial no. 186 in CBI report was appointed in 1977 by the District Inspectress (DI) who was not competent authority for the appointment. There was no select committee proceedings for her appointment through interview/ test. The post was not advertised in any newspaper. Her husband was assistant in the education department and in such circumstance, if the impugned order has been passed after giving appropriate opportunity of hearing to the petitioners, no fault may be found with the same. Referring to the facts of another similarly situated petitioner, namely, Shanti Kumari (C.W.J.C. No.3039 of 2019), it



is submitted that she was appointed by DI who was not competent because LSS teachers is a State cadre post. The post was never advertised in any local newspaper. Her name appears at serial no. 205 of the CBI report. It has also been submitted that the departmental proceeding has been conducted in accordance with law and on the face of the facts which are crystal clear and are showing that these appointments were made without any advertisement and without their being any selection committee formed for this purpose, no prejudice would be caused to the petitioner if no witness was examined by the department in the departmental proceeding.

**29.** Learned counsel for the petitioner submits that principle of natural justice cannot be put in a straight jacket formula and this is one of those cases in which the facts are such that this Court can easily appreciate that their being no denial of the fact that there was no advertisement in the newspaper and the appointments were made without roster clearance and without their being any selection committee formed for this purpose to appoint the petitioners on the basis of interview, no prejudice would be caused to the petitioners as it is an open and shut case. On the aforesaid grounds, the State-respondents have submitted that the writ application are fit to be dismissed.



As regards the judgment of the Hon'ble Jharkhand High Court, it is submitted that the same is clearly distinguishable and in any case the judgment would not be a binding precedent.

**Stand of the CBI**

**30.** Let it be recorded that in course of hearing of these writ applications when this Court went through the records including the report of the CBI, learned Senior Counsel for the CBI was called upon to take a stand with regard to the nature of the cases found by the CBI particularly the distinction drawn by the CBI in its report between irregular and illegal appointments. Learned Senior Counsel for the CBI has assisted this Court by going into the records particularly the report of the CBI and learned Senior Counsel pointed out that the cases in which the appointments have been made on political recommendations without any advertisement and without their being any select committee and without there being any interview by such appointing authorities who had no authority to make regular appointments are definitely in the nature of illegal appointments.

**Consideration**

**31.** Having heard learned counsel for the petitioners, learned counsel for the State and learned Senior Counsel for the CBI as also on going through the pleadings, this Court finds that



writ petitioners are questioning the impugned orders passed by the State-respondents by which in exercise of power under Rule 43(b) of the Pension Rules, the pension as well as other retiral benefits of the petitioners have been forfeited.

**32.** The background of the present case would be evident from the submissions of the parties which have been taken note of hereinabove.

**33.** In the case of **Shanti Kumari Vs. State of Bihar & Ors.** this Court in its judgment dated 17.01.2017 in C.W.J.C. No. 17904 of 2016 inter alia observed as follows:-

“.....Undisputedly the petitioners have been deprived of a reasonable opportunity to canvas their respective cases, produce relevant documents together with supporting case laws which could not be pressed into service, in the manner in which the matter has been conducted. My observations certainly would not bear a protection to such appointments which are plagued with fraud and obtained on forged documents, however this would require an examination thereof and individual case needs to be examined.”

(underline is mine)

Further it is observed in concluding paragraph as under:

“Needless to add that in case the Regional Deputy Director of Education, Magadh Division, Gaya as well as Regional Deputy Director of Education of other Divisions would decide to re-initiate the proceeding and serve notice on the writ petitioners, they would cooperate in the expeditious disposal of the matter.”

**34.** The petitioners were facing the charges that they were appointed without advertisement of the posts in a newspaper or to the employment exchange, the roster clearance were not available, reservation rules were not followed and there was no



selection through a selection committee by conducting interview and/or verifying the records. They were appointed on the recommendation of the politicians. In the first round of litigation, the termination of the petitioners were set aside by this Court and they were ordered to be reinstated in service with consequential benefits even as the disciplinary proceeding against them were to proceed afresh. At this stage, this Court finds that the petitioners in fact got benefit of their salary etc. even as the validity of their appointments were yet to be tested, examined and an appropriate view was to be taken. In this regard, the Hon'ble Constitution Bench judgment in the case of **Managing Director, ECIL, Hyderabad Versus B. Karunakar and Others** reported in (1993) 4 SCC 727 may be referred to. Paragraph '31' of the judgment is being reproduced here under for ready reference:-

“31. Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the Court/Tribunal and give the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the Court/Tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment. The Court/Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to short cuts. Since it is the Courts/Tribunals which will apply their



judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the Court/Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment. Where after following the above procedure, the Court/Tribunal sets aside the order of punishment, the proper relief that should be granted is to direct reinstatement of the employee with liberty to the authority/management to proceed with the inquiry, by placing the employee under suspension and continuing the inquiry from the stage of furnishing him with the report. The question whether the employee would be entitled to the back-wages and other benefits from the date of his dismissal to the date of his reinstatement if ultimately ordered, should invariably be left to be decided by the authority concerned according to law, after the culmination of the proceedings and depending on the final outcome. If the employee succeeds in the fresh inquiry and is directed to be reinstated, the authority should be at liberty to decide according to law how it will treat the period from the date of dismissal till the reinstatement and to what benefits, if any and the extent of the benefits, he will be entitled. The reinstatement made as a result of the setting aside of the inquiry for failure to furnish the report, should be treated as a reinstatement for the purpose of holding the fresh inquiry from the stage of furnishing the report and no more, where such fresh inquiry is held. That will also be the correct position in law.”

**35.** In the fresh round of disciplinary proceeding, the petitioner(s) were served with Prapatra ‘K’ (प्रपत्र क). Inquiry was conducted into the matter and after consideration of the stand of the petitioners what ultimately transpired in the inquiry report may be summarised as under:

(i) No advertisement had been issued by the Inspectress of School-cum-Deputy Director of Education, Bihar for the



purpose of appointment of teachers in the subordinate service cadre.

(ii) The petitioners only claimed that there were information on the notice board of the office of the Inspectress of School-cum-Deputy Director of Education, Bihar, it is not their stand that the posts were advertised and the public at large who were eligible for appointment as teacher had opportunity to apply for the said post.

(iii) As regards, roster clearance and observance of the principles of reservation are concerned, this is also not in dispute, and

(iv) The petitioners failed to produce any letter of a selection committee or any competent authority calling upon them to appear for interview.

**36.** In course of hearing of C.W.J.C. No.1690 of 1997 which was filed by Smt. Shushma Kumari and other primary teachers claiming pay benefits for the period 20.07.1985 to 17.05.1990, the then Director, Secondary Education, Bihar filed a reply contending that the lady teachers appointed during the period from 1980 onwards were appointed illegally and consequently the promotion given to them was also irregular. This Court was informed that the matter of appointment/ promotion of these



teachers was under investigation with Cabinet Vigilance Department and the Government of Bihar had set up an inquiry committee to inquire into the matter. This Court vide order date 19.09.1997 directed the Government of Bihar to take final decision in the matter. An inquiry was also started by the Cabinet Vigilance Investigation Bureau, Bihar. While the said inquiry was in progress, in C.W.J.C. No.9847 of 1998 (**Brajesh Kumar and others vs. State of Bihar and others**) this Court issued directions to the CBI to take up the investigation into the matter of appointments of primary teachers and other teachers in the State of Bihar from 1980 till date. It is in these facts and circumstances, the CBI Anti Corruption Branch registered the preliminary inquiry No.3 (A/01) dated 08.06.2001.

37. The preliminary inquiry revealed that Inspectress of Schools-cum-Deputy Director, Secondary Education, Bihar provided a list of 305 teachers of LSS (women wing) whose appointments were said to be illegal/irregular. The name of the authorities who had appointed them were also provided. Another list of 160 LSS teachers allegedly illegally/ irregularly promoted during 1990 by late Dr. Sachita Kumar Sinha the then Director, Secondary Education, Bihar was also obtained by the CBI.



38. The CBI in its report has scrutinized the rules governing the LSS teachers and circulars which were issued by the Government of Bihar from time to time. This Court deems it just and proper to reproduce the same hereunder for the ready reference:-

“Lower Subordinate Education Service

TOTAL STRENGTH 523

Assistant Teacher	Music Teacher (Matric +2 yr. Dip in Music/song)	Craft Teacher (Matric + 2 yr. Dip) In Drg./Art/Craft)	Language Teacher (Urdu or Orriya)
Matric Trained (Matric +2 Yr. Basic Teachers Course)	Intermediate Art/Science Trained (Intermediate Art/Science +2 Yr. Basic Teachers Course)		

S. No.	DESCRIPTION	CIRCULAR
1.	<b>APPOINTING AUTHORITY</b>	
	(a) Inspectress of School Bihar	G.O. No. I-D/306-58E-1 382 dt. 17.03.59 Bihar Education Code Rule 64 ( 1 & 3)
	(b) Director Sec. Edu. Bihar	Article 3 of BB Misc. Rules, 1958 Rule, Rule 796 of Bihar Education Code. Notification 262 dt. 2.6.86
2.	<b>EMERGENCY POWERS OF INSPECTRESS OF SCHOOLS, BIHAR</b>	
	(a) To appoint LSS. For 3 months temporarily in emergency but there is no provision to grant further extension.	Rule 64 (3-i) of Bihar Education Code
	(b) No-ad-hoc appointments :-	3/L3-102/85 ka-7639 dt. 11.6.86
	All irregular appointments made after 1.8.85 be canceled and those officers who	



did not follow the rules and roster be dealt with harshly.

(c) No appointment in any department without the orders of the concerned ministers be made without following the procedure Advertisement No. 476 V dt. 27.02.1987

3. **ROSTER CLEARANCE**

(a) Inspectress of School should finish to the Director by 16<sup>th</sup> of April every year, The Particulars of qualification, category, etc. Of all vacancies, that are likely to occur within the following year. Rule 64 (3-iii) of Bihar Education Code

(b) Roster clearance of yearly vacancies of DP 1 Abc 1-029/82-716 ka dt. 16.12.82

from DP & AR be obtained through & AR Director, Secondary Education.

4. Publicity of vacancies in newspaper through employment exchange. Circular No. 8167 dt 21.6.66 of Appointment department of Government of Bihar

5. **RESERVATION OF VACANCIES  
In EACH STREAM OF LSS**

There are provisions of reservation for 14 % vacancies in case of SC & 10% in Case of St Candidates. 1 1 Aa1-113/750 ka Dt. Of DP & A.R  
1Aa-029/82-716 ka Dt. 15.12.82

6. **UPPAR AGE LIMIT  
PERIOD GEN. SC ST OBC**

(a) (Jan. 1980 to 14-05-80) 25 Yr. 28 Yr. 28 yr. ---- Rule 797 of Bihar Board's Misc. Rules 58

(b) (15.05.80 to 09.08.90) 28 Yr. 31 Yr. 31Yr. ---- 3-R/302/80 ka 2026 dt. 17.2.82, Resolution No. 6586 dt. 15.5.90

(c) 10.8.90 to 3.2.91) 33 Yr. 38 Yr. 38 Yr. ---- 3/R/1-308/83 Ka 800 dt. 6.2.87  
Resolution No. 9816 dt. 10.8.90

(d) 4.2.91 to 31.12.2000) 35 Yr. 40 Yr. 40Yr. 38 Yr. 3-M/1-208/91 Ka 1600 dt. 4.2.91 and  
3-M/1-208/91 ka 1600 dt. 4.2.91 and  
3-M/250/91/Ka2212 dt. 28.2.96

7. **QUALIFICATION**

(a) Gen. Assistant Teacher :- Matric + 2 Yr. BTC from Government/Recognised Training Institution 10/Va3-56/88/Pt/SHI-1 16 dt. 5.3.91

(b) Music Teacher :- Matric + 2 Yr. Diploma/Trg. In Music/Song.

(c) Craft Teacher :- Matric + 2 yr. Dip./Trg. In Art./Craft/Drawing.

(NOTE:- The condition of 2 yr. Trg. was relaxed and in service trg. Will be provided after appointment)

Circular 116 dt. 5.3.91

8. **SELECTION COMMITTEE**

Bihar Education Code (Art. 64-3)



(a) A Selection/ Establishment Committee with Inspectress of School Bihar as Chairman/Head assisted by 3-4 members shall be constituted for recruitment of LSS teachers

(b) Inspectress of Schools Bihar will issue Bihar Education Code (Art. 64-3) appointment letters under her signatures out of the select list approved by Director, Secondary Education.

9. **APPOINTMENT ON COMPASSIONATE GROUNDS**  
The age, qualification and procedure may be relaxed for such appointments approved by the Government through DP & AR. 3R-1-Ka-12754 DP & AR dt. 12.7.77, 1 1478 ka Dt. 5.7.79 3/MI-Ka 11946 dt. 30.11.84 3/C-2-2067/90 ka 13293 dt. 5.10.91
10. **RECOMMENDATORY APPOINTMENTS** There are no provisions, no procedure and no circulars for such appointments

For the purposes of promotion of LSS Teacher to the grade of SES, the relevant rules and procedure as applicable are summarised as below :-

1. **Appointing Authority** :- Director, Secondary Education Bihar is the appointing authority of SES Teachers both for direct recruitment as well as through promotion from LSS to SES (Rule 796 Bihar Education Code 1961 and Letter No. 11/MZZ/03/63E-4484 dt. 8.12.65).
2. **Direct Recruitment** :- It is to be made through State Selection Board /Vidyalaya Sewa Board.
3. **Promotions** :- For promotion from LSS teacher to SES teacher, 50% of the total post will be filled by direct recruitment and 50 % of the vacancies will be filled by promotion from amongst the LSS teachers as per letter No. 27 dt 7.1.76 of Education Department.”

**39.** It is evident from the relevant Rules and the Circulars which have been issued from time to time that the Director, Secondary Education, Bihar is the appointing authority of the Subordinate Education Services Teachers (hereinafter referred to as the ‘SES Teachers’) both by direct recruitment as well as through promotion from ‘LSS’ to ‘SES’ (Refer Rule 796 of the Bihar Education Code 1961 and letter No. 11/M 22/03/63 E-4484 dated 08.12.1965). It is also evident that the direct recruitment is



to be made through State Selection Board/Vidayalay Sewa Board. The Director, Secondary Education is only competent to approve a select list for appointment in LSS (women cadre). A compassionate appointment may be made in 'SES' Scale directly as and when cleared by the government through Department of Personal and Administrative Reforms.

**40.** As regards the appointment of the 305 LSS Teachers, the CBI got 234 appointment folders and scrutinized the same. Some of the appointees were also examined to ascertain the procedure adopted towards their appointment as LSS Teachers. This inquiry revealed that these appointments of LSS Teachers (women wing) were made by 46 appointing authorities during the period from 1980 to 1998. They were the Inspectress of School-cum-Deputy Director, Secondary Education, Bihar who made maximum number of 108 appointments during period 1980-86. One Smt. Sudha Sinha the Inspectress of School, Bihar who was the District Inspectress School (in short 'DI') at Patna at the relevant time made 57 appointments during the period 05.07.1988 to 15.01.1990 and 1987 to 1988 respectively. In this manner all the 46 Inspectress of School, Deputy Director Education, Director, Secondary Education and District Inspectress of School were involved in making appointments without carrying



any selection process. A large number of them had died at the time the CBI was conducting inquiry.

(underline is mine)

**41.** As regards the procedures related to appointment what has been revealed in the inquiry report of the CBI are being taken verbatimly from the said report as under:-

“The enquiry has further revealed that the procedure related to the appointments of LSS teachers is governed by GO No.I-D-306-58E-1 382D dated 17.3.59 and Article 64 (1 & 3) of Bihar Education Code, Article 3 of BB Misc. Rules, 1958, Rule 796 of Bihar Education code and notification 262 dated 2.6.86 according to which Inspectress of Schools of Bihar and/or Director of Secondary Education, Bihar is the appointing authority of LSS teachers. Clause 2 of Article-64 of Bihar Education Code lays down that, in the event of an urgent and unforeseen vacancy, the Inspectress may make temporary appointment of a teacher without prior reference to the Director for a period not exceeding three months. In view of the aforesaid provision, only the Inspectress of Schools was empowered to make temporary appointment only for three months. In letter No. 8167 dated 21.6.66 issued by Secretary to the Government of Bihar, it is laid down that all recruitments to the vacancies to be filled up by the State Government will be channelised compulsorily through the Employment Exchange except the vacancies which were to be filled up on the recommendation of the Bihar Public Service Commission or by promotion or transfer or deputation specifically mentioning therein that the other source of recruitment will be tried only when the Employment Exchange concerned issues a non-availability certificate.

The enquiry has further revealed that in the matter of illegal/irregular appointment of 305 LSS teachers, the original applications of most of the candidates are addressed either to the inspectress of Schools, Bihar, Patna or to the State Education Minister, Bihar. The said applications contain the recommendations made by politicians like MLA's/ MLC's other Ministers/ Distt. Educational Authorities and were endorsed to the Inspectress of School, Bihar, Patna for taking necessary action and/or for making appointment as Primary Teacher. These recommendations of the politicians or the then Education Minister were treated as Government orders by the Inspectress of Schools, Bihar/Distt. Inspectress of Schools and they without following the prescribed procedure directly issued appointment orders in favour of the recommended candidates, making appointment in a temporary capacity for a period ranging between 3 to 6 months against a temporary vacancy created by any regular teachers going on maternity/sick/long leave. The prescribed procedure, relevant rules, and circulars issued by the Government of Bihar from time to time for such appointments were not followed by the concerned appointing authority while making the appointments. Article 64 (3-i) of Bihar Education Code empowers Inspectress of Schools to make temporary emergency appointments for 3 months without following the required procedure but there is no provision to grant extension to such temporary teachers or to reappoint. The enquiry however, has revealed that in almost all the cases repeated extensions were given and re-appointment letters were issued. Under Article 64 (3-iii), the Inspectress of Schools was required to furnish to the Director Secondary Education, Bihar by the 16<sup>th</sup> of April, of every calendar year, the particulars of qualifications, categories, etc, of all vacancies that were likely to occur within the following year, and wherein regular appointments were required to be made by following the proper procedure but this rule was not followed. No advertisement for the posts was ever made in the local newspaper nor the names were called through the regional Employment Exchange as was required under the rules. No Establishment/ Select Committee was constituted to conduct test/interview to prepare a select list of the qualified and deserving candidates to make recommendations for appointment of the successful candidates for the vacant posts of LSS teachers. No roster clearance regarding reservation of vacancies for each category for the post of general teachers, music teachers and craft teachers was obtained from DP & AR through Director Secondary Education



prior to advertising the vacancies, if any, in the local newspaper/employment exchange. Contrary to the laid down procedure, direct appointment letters were issued on the basis of recommendations of politicians/authorities as mentioned in the Chart on Analysis of Available Record and Evidence enclosed as annexure to this report.

The enquiry has also revealed that in certain cases the applicants who did not possess the required qualifications of Matric Trained Teachers, were appointed in the lower scale of matric untrained teachers but subsequently upon acquiring the matric trained qualifications, they were given the scale of matric trained teachers by the concerned appointing authority. It has also been revealed that in most of the cases, the candidates submitting the applications for appointment as LSS teachers had declared self poverty, poor economic conditions, being widow, being divorcee or deserted by husband etc. as special circumstances for their appointment to the post of LSS teachers, which grounds were considered and taken into account for their appointments.

The enquiry has further revealed that in March, 1988 an advertisement had appeared in the local daily newspapers issued by Inspectress of Schools, Bihar inviting applications for the posts of general/music/craft teachers in LSS grade. A number of applications were received in response to the said advertisement. However, no teacher of General category whosoever had applied for the post was selected/appointed, though certain candidates were appointed for the post of General teacher whose applications were received duly recommended by the politicians. It is also revealed that no roster clearance for the reservation of vacancies so advertised was obtained. A few number of craft/music and dance teachers were selected and given appointments as LSS teachers on the recommendations of a Select Committee constituted for this purpose. As such these appointments have been shown as regular appointments in Chart of Analysis of Available Record and Evidence enclosed as annexure to this report.

The enquiry has revealed that the post of LSS teachers (Primary Teacher's) in Government Girls Schools of Bihar is under the direct control and supervision of Inspectress of Schools Bihar, Patna and is State cadre post and its appointing as well as disciplinary authority is Inspectress of Schools - cum - Dy. Director Secondary Education, Bihar. However, on a number of occasions, in a number of cases Distt. Inspectresses of Schools of various districts of Bihar, who are not appointing authorities for LSS teachers were also allowed to make appointments of LSS teachers in Government Girls Schools within their respective districts. It is further revealed that some of the teachers appointed prior to 1980 were appointed in similar manner in temporary capacity for 3 months without following the proper procedure by the then Inspectresses of Schools Bihar, Patna as has been followed by the Inspectresses of Schools Bihar, Patna in this case during 1980 -98. The Distt. Inspectresses of Schools of the relevant districts have also made appointments/re appointments of LSS teachers in temporary capacity for 3-6 months without following the proper procedure and have also granted repeated extensions to such temporary appointees against the rules. The Distt. Inspectress of Schools is not an authorised appointing authority of LSS teachers and hence all the appointments made by Distt. Inspectresses of Schools during 1980 -98 in their districts have been shown as irregular appointments in the Chart of Analysis of Available Record and Evidence enclosed as annexure to this report.

The enquiry has revealed that out of 305 appointments so made, no record is available in respect of 25 appointments. The Chart of Analysis of Available Record' and Evidence enclosed as annexure to this report reveals different irregularities committed by the said 46 appointing authorities, such as non-obtaining of roster clearance, non-advertisement of posts/vacancies in daily newspapers/ regional employment. exchange, non-calling of names of the candidates through regional employment exchanges, non- observance of age limits. non-observance of training/ educational qualification, non-observance of prescribed procedure, making appointments on the recommendations of politicians like MLAs, MLCS, Chief Minister, Education Minister, other Ministers and other authorities without following the prescribed procedure and making of appointments by unauthorised/ incompetent authorities etc.

The enquiry has revealed that Distt. Inspectresses of Schools of the relevant districts have also made appointments/ reappointments of LSS teachers in temporary capacity for 3-6 months without following the proper procedure and have also granted repeated extensions to such temporary appointees against the rules. The Distt. Inspectress of Schools is not an authorised appointing authority of LSS teachers and hence all the appointments made by Distt. Inspectresses of Schools during 1980-98 in their districts have been concluded as irregular appointments in the Chart of Analysis of Available Record and. Evidence enclosed as annexure to this report. It has also come to light that under Article 97(xi) of Bihar Education Code, under the head of Powers of Distt Inspectresses of Schools, it has been laid down that District Inspectress of Schools is empowered to "make appointment of Class-IV Government, Servant and of teachers in the scale of 50 - 90 or below under her control and to sanction pension to all such cases". This power given to the Distt. Inspectresses. has been misunderstood



as the appointing power of LSS teachers. However, The Distt. Inspectress of Schools cannot be the appointing authority of LSS teachers due to the below mentioned reasons :-

- i. LSS teacher's post is a State Cadre Post under the direct control and supervision of Inspectresses of Schools Bihar, Patna who is the appointing authority for this post under article 64 (1-3).
- ii. There can not be two appointing authorities for the same post i.e. Inspectress of Schools, Bihar and the District Inspectress of Schools.
- iii. District Inspectresses are posted in the relevant districts under the control of Inspectress of Schools Bihar, Patna to assist her in the work of control and supervision of Government Girls Schools of Bihar and a person posted in a district can not be the appointing authority of a state cadre post.
- iv. The required Roster Register and seniority list of LSS teachers is being maintained by the Inspectress of Schools Bihar, Patna under supervision of Director Secondary Education, Bihar whereas no such register and seniority list can be maintained' at a district level for a State Cadre Post.
- v. The power of Distt. Inspectress under article: 97(xi) has been provided in respect of Take Over Girls Schools, if any, in her district. Now this power in respect of appointment in Take Over Schools is vested in a committee constituted under District Education Officer/ Superintendent.
- vi. The Hon'ble High Court of Jharkhand vide its order dated 9.6.2002 passed in CWJC No. 1110 and 1119 of 1995 had held that "neither the education code nor any of the rules empowers Distt. Inspectress of Schools to be the appointing authority in respect of appointment to the post of Matric Trained Teachers. The appointment of the petitioners by the Distt. Inspectress of Schools is illegal and wholly without jurisdiction".
- vii. The appointing authority of a post is always the disciplinary authority of that post and vice-versa. The disciplinary authority in case of LSS teachers is Inspectress of Schools Bihar, Patna and not the Distt. Inspectress."

(underline is mine)

**42.** What surprised to this Court is that even though the CBI in its' preliminary report found that huge number of illegal appointments had been made contrary to the Rules which had in fact resulted in undue enrichment to the illegally appointed Teachers, the CBI did not register a regular case to prosecute them and got contented by recommending the department concerned as under:-

**"4. CONCLUSION :**

In view of the facts, circumstances and evidence discussed above, the matter is being referred to the department with the recommendations as under :-

- i) Suitable Action as deemed fit against the appointees who have been irregularly appointed to be taken by the Director, Secondary Education, Government of Bihar.



- ii) Suitable Action as deemed fit against Smt. Shanti Devi, inspectress of School, Bihar, Smt. Prabhavati Kumar, Inspectress of School, Bihar, Smt. Manju Singh, Distt. Inspectress of School, Bhojpur - Rohtas, ms. Meena Kumari Rai, Distt, inspectress of School, Bhojpur and Smt, Neeta Kumari Pandey, Distt. Inspectress of School, Singhbloom for making irregular appointments of LSS teachers.
- iii) The Government of Bihar may initiate suitable measures to bring about system improvement in the appointment of teachers and their monitoring by higher authority to ensure that such lapses as have figured out in the present enquiry for not occur in future.”

**43.** Despite submission of the CBI report revealing startling facts and then recommendation to the State Authorities, no action was taken for obvious reason. Right from the then Politicians to the Assistant in the Education Department and a large number of officers who had made illegal appointments were likely to suffer the consequences of legal action. The CBI report was dumped. The State respondents at a much belated stage proceeded to take action only after the Hon'ble Division Bench of this Court passed an order dated 19.09.2016 in C.W.J.C. No. 10002 of 2016 (Kaushal Kumar Vs. The State of Bihar & Ors.). The Hon'ble Division Bench having noticed that no action had been taken by the State respondents on the report of the CBI called upon the Principle Secretary of the Department, the Director, Secondary Education, Regional Deputy Director of Education, Magadh Division, Gaya to appear in Court. Subsequently, the Hon'ble Division Bench was informed that actions have been taken by the State upon recommendation of the CBI which are now subject matter of large number of the individual writ petitions. Taking note of it, the Hon'ble Division Bench observed that as



State has taken action, the writ petition had outlived its purpose. It was, thus, permitted to be withdrawn.

**44.** In this manner despite the fact that the department was well aware about the illegal appointments made during the period 1980-98 and in fact an affidavit to this effect had been filed in C.W.J.C. No. 1690 of 1997 itself, the fact remains that inquiry which was initiated by the Cabinet (Vigilance) went in the hand of the CBI and the CBI registered a preliminary inquiry in the year 2001 which ended in submission of a preliminary report sometime in the year 2004 but no action was taken by the department pursuant to the revelation made in the preliminary inquiry report of the CBI forwarded to the State Chief Secretary vide confidential Letter No. 3937 dated 3071-04. This shows complete inaction on the part of the State respondents and calls upon this Court to take a view that there were concerted efforts inside the Department itself to delay any action against the petitioners and similarly situated illegal appointees and others involved in this racket of illegal appointments and it was done in order to confer them legitimacy by continuing in service for long years. The public money kept on flowing by way of salary, perks and other emoluments to the illegally appointed Teachers who enjoyed the benefit of service.

**45.** In this Court, the petitioners have raised a submission that the CBI report discriminates among the various Teachers whose



appointments have been scrutinized by calling some of them illegal appointees whereas the others as irregular appointees. This Court need not detain itself on this issue because what is illegal appointment and what would be irregular appointment in legal parlance have been well discussed by the Hon'ble Constitution Bench of the Apex Court in the case of **Uma Devi** (supra). The appointments which have taken place without there being any advertisement, without sanction post, by the authorities who are not competent to make regular appointments and without there by any selection committee are illegal appointments and it does not matter if any one else says or claims that it will be a case of irregular appointment. Something which is illegal cannot be regularized and this issue is no longer a *res integra*.

46. In a recent judgment in the case of the **State of Bihar v. Devendra Sharma** reported in (2020) 15 SCC 466, the Hon'ble Supreme Court was dealing with the cases of illegal appointments in the Health Department of the State of Bihar against Class III and Class IV Posts. About six thousands employees appointed by one Dr. Mallick the then Assistant Director in the Health Department had been terminated. Those were challenged on the ground of violation of Principle of Natural Justice. The Hon'ble Supreme Court while dealing with the said matter noticed the views of the Constitution Bench in the case of **Uma Devi** (supra) and held that in **Uma Devi** (supra) the submission that the employees had legitimate expectations was negated. In paragraph '46 of the judgment it has been held as under:-



“46. ... The doctrine can be invoked if the decisions of the administrative authority affect the person by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there have been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker that they will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn. ... There is no case that any assurance was given by the Government or the department concerned while making the appointment on daily wages that the status conferred on him will not be withdrawn until some rational reason comes into existence for withdrawing it. The very engagement was against the constitutional scheme.....”

47. The Hon’ble Supreme Court referred the **State of Mysore v. S.V. Narayanappa** reported in (1967) 1 SCR 128 : AIR 1967 SC 1071, **R.N. Nanjundappa v. T. Thimmiah** reported in (1972) 1 SCC 409 and **B.N. Nagarajan v. State of Karnataka** reported in (1979) 4 SCC 507 and held that there may be cases where irregular appointments (not illegal appointments) may be made as explained in those judgments.

48. The Hon’ble Supreme Court then approved the Full Bench Judgment of Patna High Court in the case of **Rita Misha Vs. Director, Primary Education** reported in (AIR 1988 Pat 26) wherein the question posed before the Hon’ble Full Bench was whether a public servant was entitled to payment of salary to him for the work done despite the fact that his letter of appointment was forged, fraudulent or illegal. The Hon’ble Full Bench held as under:-

“13. It is manifest from the above that the rights to salary, pension and other service benefits are entirely statutory in nature in public service. Therefore, these rights, including the right to salary, spring from a valid and legal appointment to the post. Once it is



found that the very appointment is illegal and is non est in the eye of the law, no statutory entitlement for salary or consequential rights of pension and other monetary benefits can arise. In particular, if the very appointment is rested on forgery, no statutory right can flow from it.”

49. The Hon’ble Supreme Court noticed an another Full Bench judgment of this Court in the case of **Ram Sewak Yadav Vs. The State of Bihar &Ors.** reported in (2013) 1 PLJR 964 (FB) wherein the appellants were appointed on class IV post by the Civil Surgeon in the Health Department but their services were terminated for the reasons that their appointments were illegal. The Hon’ble Full Bench of this Court held in paragraph ‘41’ as under:-

“41. The public power to make appointment on public posts is conferred for public good. The power is given to the officer concerned by the Government in trust, that it shall be used and not abused. If the trust is belied, the protection conferred upon a government servant stands denuded. The answerability and accountability is then individual of the officer. The Government is duty-bound to take appropriate civil/criminal action against the officer. The illegality in the appointment is not a one way street. If there was someone willing to pay a price for the job, there was another waiting to take advantage of the same by fixing a price. It is not without reason that majority of such appointments relate to Class III and IV posts. The standard by which the Government professes to act is the same standard by which its actions shall be judged. Therefore whenever the Government terminates an appointment being illegal, it is the constitutional duty of the Government to simultaneously take action against the officials who belied the trust of the Government. Those who made hay while the sun shined must see the darker cloudy days also. ....”

50. In category I cases, a glance over the tabular chart herein below would precisely show the name of the writ petitioner, their case number, serial number in the CBI report/remarks in CBI report and impugned Memo Number:

CASE NUMBER	Party NAME	Irregularities and remarks by CBI	IMPUNGED ORDER
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C.W.J.C. NO. 20636 of 2021	Shamima Khatoon vs. State of Bihar & Ors.	<b>(28)</b> She was given direct appointment without following proper procedure for such appointments. No advertisement of the post was made in any local newspaper or agency of employment exchange as such there are not proceeding of any select committee for interview/test	Memo No. 1161 dated 23.11.2021 (Annexture-15)
C.W.J.C. No. 20610 of 2021	Sauda Khatun Vs. State of Bihar & Ors.	<b>(224)</b> She was appointed having a diploma a teaching course for only two months in place of BTC for two years as required for a matric trained LSS Teachers. As per AO she was appointed by DI on the order 227 dt. 30.01.1981 of BI without following proper procedure for such appointments. DI are not competent to appoint LSS Teachers which is a State cadre post. No proceedings of any select committee are available for her selection through interview/test. The post were not advertised in any local newspaper, no roster clearance of vacancies was obtained and reservation rule were not followed.	Memo No. 1161 dated 23.11.2021 (Annexture-35)



C.W.J.C. No.20646 of 2021	Ragni Dayal Vs. State of Bihar & Ors.	<b>(154)</b> She was over-aged by three years three months when appointed on regular basis. She had been given appointment on the recommendation of politicians without following the procedure of the appointment. No Select Committee proceedings were available for her selection through interview/test. No roster clearance of the post was obtained and even though it is stated that she had applied for the post advertised in the year 1988 was not selected as no general LSS teacher was appointed against the said vacancy as there was no roster clearance and no reservation rule was followed.	Memo No. 1161 dated 23.11.2021 (Annexture-27)
C.W.J.C. No. 961 of 2021	Smt. Poonam Kumari Vs. State of Bihar & Ors.	<b>(210)</b> She was directly appointed by the DI on the recommendation of politicians without following the proper procedure of such appointments. Moreover, DI's are not competent to appoint LSS teachers which is a state cadre post. No proceedings of any select committee are available for her selection through interview/test. The posts were not advertised in any local newspaper. No	Memo No. 05 dated 13.01.2020 (Annexture-23)



		roster clearance of the vacancies was obtained and reservation rules were also not followed.	
C.W.J.C. No.14172 of 2021	Geeta Kumari Vs. State of Bihar & Ors.	<b>(71)</b> She was also appointed directly on the recommendation of politicians without following the procedure of such appointment. In her case also, the post was not advertised and no selection process was followed	Memo No. 884 dated 16.07.2021 (Annexure-1)
C.W.J.C. No.15213 of 2021	Kamla Kumari Vs. State of Bihar & Ors.	<b>(83)</b> She was also appointed on the recommendation of the politicians without following the procedure for appointment. No advertisement, no roster clearance, no reservation policy and any other proceeding were followed	Memo No. 886 dated 16.07.2021 (Annexure-1)
C.W.J.C. No.16457 of 2021	Abha Rani Vs. State of Bihar & Ors.	<b>(103)</b> Appointments pf both were also made on the recommendation of the politicians/member of the concerned schools on temporary basis and were given extensions repeatedly.	Memo No. 885 dated 16.07.2021 (Annexure-14)
C.W.J.C. No. 16482 of 2021	Shashi Kala Prasad Vs. State of Bihar & Ors.	<b>(120)</b> Shashi Kala Prasad was over-aged by six months for appointment on regular basis without	Memo No. 825 dated 12.07.2021 (Annexure-13)



		following the procedure for such appointments were made. There are no proceedings of any such Select Committee for her selection through interview/test. Post was not advertised in local newspaper.	
C.W.J.C. No.225 of 2022	Sangita Pandey Vs. State of Bihar & Ors.	<b>((225))</b> She was appointed by District Inspectress without following the procedure. DI was not competent to appoint LSS teachers which is a State cadre post. The posts were not advertised in any local newspaper and no any proceeding of any Select Committee are available for her selection	Memo No. 1161 dated 23.11.2021 (Annexture-18)
C.W.J.C. No.8020 of 2022	Kamini Kumari Vs. State of Bihar & Ors.	<b>(239)</b> She was given direct appointment by DI on such conditions to avoid loss of education to girls but without following the proper procedure for such appointment. DI was not competent to appoint LSS teacher, the posts were not advertised and no proceeding of any Select Committee are available.	Memo No. 3/Aa 1-192/2016-621 dated 16.12.2021(Annexture-21)
C.W.J.C. No. 12800 of 2022	Usha Kumari Vs. State of Bihar & Ors.	<b>(41)</b> she was initially appointed on temporary basis which was extended	Memo No. 248 dated 25.04.2022 issued by Special Secretary cum Director (Annexture-1)



		repeatedly for three months on the recommendations of the minister and was finally appointed on regular basis on the recommendation of the officials without following the procedure for such appointments. No advertisement of the post was made in any local newspaper and no proceeding of any Select Committee for her selection through interview/test is available	
C.W.J.C. No. 2351 of 2022	Pushpalata Sinha Vs. State of Bihar & Ors.	<b>(76)</b> The AO speaks of her appointment by order 18481-78 dt. 14.10.1977 (not available on record) against which she did not joined. Now she was direct appointment without following the procedure for such appointment. No advertisement of the post was made in any local newspaper and no proceeding of any Select Committee for her selection through interview/test	Memo No. 1608 dated 31.08.2022 ( Annexure-29)
C.W.J.C. No.2364 of 2023	Bansuri Acharya Vs. State of Bihar & Ors.	<b>(138)</b> She was recommend for appointment by select committee against advt. 88 whereas she was over age at the time	Memo No. 1609 dated 31.08.2022 ( Annexure-33)



		of appointment. The roster clearance was not obtained and reservation rule were not followed.	
C.W.J.C. No. 5912 of 2023	Smt. Usha Kiran Kumari Vs. State of Bihar & Ors.	<b>(70)</b> She was appointed on recommendation of politicians. The post were not advertise in any local newspaper and no proceeding of any Select Committee for her selection through interview/test and no roster clearance was obtained. Reservation rule were not followed.	Memo No. 247 dated 25.04.2022 ( Annexure-14)
C.W.J.C. No. 6361 of 2023	Shubhra Rani Vs. State of Bihar & Ors.	<b>(150)</b> She was over age by four months when appointed on regular basis. Although, she claims to have applied for the post advertised in 88 but as per her application she was not selected for the said post as no general LSS teachers was appointed through selection by any select committee. No select committee proceedings for selection through interview/test are available for appointment of general teachers. She was given appointment on the recommendation of politicians without following	Memo No. 1602 dated 30.08.2022 ( Annexure-26)



		the procedure of such appointments. No roster clearance of the post advertised was obtained and reservation rules were also not followed.	
C.W.J.C. No. 10022 of 2019	Neelam Kumari Vs. State of Bihar & Ors.	<b>(186)</b> She was untrained when initially appointed by DI. She was given appointment without following the proper procedure for such appointments. Her husband might have played some role for her appointment. There are no select committee proceedings for her selection through interview/test. The posts were not advertised in any newspaper/employment exchange. No roster clearance of the post to be advertised was obtained and reservation rules were also not followed.	Memo No. 476 dated 12.07.2018 (Annexure-18)
C.W.J.C. No. 7808 of 2023	Bibha Rani Vs. State of Bihar & Ors.	<b>(78)</b> She appointed directly by the BI without following the proper procedure for such appointments. She was not entitled for any compassionate treatment as her mother was still in service. No advertisement of the post was made in	Office order vide Memo No. 1533 dated 16.08.2022 (Annexure 30)



		any local newspaper or agency of employment exchange. No roster clearance was obtained and reservation rules were also not followed. There are no proceedings of any select committee for her selection through interview/test.	
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**51.** In the facts of the matter, when this Court examined the submissions made on behalf of the petitioners, it is found that these petitioners were given ample opportunity of hearing. They were served with the Memo of Charge and were allowed to participate in the inquiry. They were also served with the copy of inquiry report and were given time to submit their show cause. Thus, the principle of natural justice have been fully complied with. No violation of procedure established by law could be shown to this Court. The petitioners, in fact, admit that there was no advertisement in any newspaper. They claim that the posts were advertised through the notice pasted in the office of the DI but this would not come to their rescue. These are the cases of backdoor appointments and, hence, the appointment of the petitioners and continuance in service for all these years would not fetch any advantage in their favour. None of the petitioners have in fact dislodged the finding of illegal appointment. They are not able to establish that their appointments were legal and valid in all respects. The credible findings in the CBI report are in fact not contested on any cogent ground.



**52.** In the case of **Devendra Sharma** (supra), the Hon'ble Supreme Court has approved the view of the Hon'ble Full Bench in the case of **Ram Sevak Yadav** (supra) that illegal appointment which are *void ab initio* cannot be regularised in any circumstances and question of regularization of their services even by interpreting paragraph '44' of the judgment in the case of **Umadevi (3)** (supra) would not arise.

**53.** To this Court, it appears that these appointments are akin to and stand on similar footing with that of those Class III and Class IV employees who were appointed by Dr Mallick in the Tuberculosis Eradication Scheme which were held ex facie illegal. In fact in the cases of those appointees, the Court while dealing with the submissions of the terminated employees in the case of **Ashwani Kumar and Others v. State of Bihar and Others** reported in (1997) 2 SCC 1, held that those recruitments were arbitrary, capricious and null and void after considering the Government Order dated December 3, 1980 as well as Government Resolution dated March 25, 1983. It was also held that none of the appointees have any accrued right in the absence of sanctioned post and the whole exercise remained in the realm of an unauthorised adventure. It was held that army of the employees of the Scheme had got to be cleared lock, stock and barrel so that



public confidence in Government administration would not get shattered and arbitrary actions would not get sanctified. In these cases also the Government order and provisions of the Bihar Education Code have been relied upon to show the appointments of these petitioners being wholly illegal and bad in Law.

54. The Principles of nature justice stand fully complied with and the petitioners cannot be allowed to take advantage of their continuance over all these years when the inquiry into these appointments was kept pending because all high-ups were allegedly involved in this scam of illegal appointments.

55. Reliance placed on the judgment of the Hon'ble Jharkhand High Court in the case of **Sushma Kumari @ Sushma Kumari Devi versus the State of Jharkhand and Others (W.P. (S) No. 6023 of 2018)** is wholly misconceived. In the said case, as it appears from the judgment itself, the fact was that there was an advertisement notice on 21.09.1988 and a three member selection committee had been constituted for appointment of matric trained teacher. Petitioner was appointed through the selection process. No adverse remarks were made by CBI and CBI only recorded that the "records were not available". In the said case, the Deputy Director of Education had issued Order No. 4161 dated 22.04.1989, therefore, it was held not a case of back door appointment. It is



evident from bare reading of the Judgment of the Jharkhand High Court that the facts of the said case were quite different and distinct.

56. Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of **Roop Singh Negi versus Punjab National Bank and Others** reported in (2009) 2 SCC 570 in the case of **Union of India & Ors. v. B.V. Gopinath** reported in (2014) 1 SCC 351 to submit that in this case the State respondents have not acted in consonance with the principles of natural justice. The Hon'ble Supreme Court has held that the charges levelled against the delinquent officer must be found to have been proved and the enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The submission is that purported evidence collected during the investigation by the Investigating Officer against all the accused by itself would not be treated to be evidence in the disciplinary proceeding. Submission is that in this case no departmental witness appeared to prove the contents of the inquiry, therefore, it could not have been treated as evidence. At first instance the submission appears impressive but then this Court is reminded of the judgment of the Hon'ble Supreme Court in the case of **Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani** reported in (2004) 8 SCC 579 wherein the Hon'ble Supreme Court has held that the judgment of the court cannot be cited like an Euclid's theorem because a slight change in the facts of the case



would make a sea difference in the opinion of the court. In the case of **Roop Singh Negi (supra)** there was an allegation against the delinquent employee who was working as Manager in the branch office of the Bank at Chandni Chauk, Delhi that he was responsible for the loss of drawing book of which one of the two employees had been the custodians and that the loss of drawing book would have been avoided had they taken the due care and precaution. The employer had lodged a first information report and after five years when the disciplinary proceeding was initiated, the documents collected by the Investigating officer were simply produced and the inquiry officer concluded that the petitioner Roop Singh Negi had direct or indirect links with the culprits. The criminal court had already passed an order of discharge against the petitioner and it was brought to the notice of the inquiry officer but the same was not considered. In this background the judgment of the Hon'ble Supreme Court has been rendered in the case of **Roop Singh Negi (supra)**. The facts of the present case are that of a mass scale illegal appointments by incompetent officers of the State on the recommendation of the politicians without any advertisement and without any selection committee for the purpose. In these circumstances, it is not only the CBI report which is the basis for arriving at a conclusion that the appointment of the petitioners (Category I and II for the present) is illegal rather the appointments were also against the relevant government circulars and the provisions of the Bihar Education Code. This is in the nature of scam and in such



cases, it appears to this Court that ‘situational modifications’ with regard to application of principle of natural justice would be permissible. In this regard this Court would quote the relevant part of the judgment of the Hon’ble Supreme Court in the case of **Mohinder Singh Gill and Anr. Vs. The Chief Election Commissioner, New Delhi and Ors** reported in **AIR 1978 SC 851** wherein while dealing with the issue of prejudice and the burden to prove prejudice, the Hon’ble Supreme Court has observed that the Court may not be taken to say that “situational modifications to notice and hearing are altogether impermissible. They are, as the learned Addl. Solicitor-General rightly stressed. The glory of the law is not that sweeping rules are laid down but that it tailors principles to practical needs, doctors remedies to suit the patient, promotes, not freezes, life's processes, if we may mix metaphors.” Tucker, LJ drove home this point when he observed in the Duke of Norfolk case (1949) 1 All ER 109) in the following words:-

“There are no words which are of universal application to every kind of inquiry .... The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject-matter that is being dealt with, and so forth.”

This circumstantial flexibility of fair hearing has been underscored in *Wiseman v. Borneman* (1971) AC 297 by Lord Reid when he said he would be “sorry to see this fundamental general principle degenerate into a series of hard-and-fast rules”.

57. This Court therefore, finds that the judgments of the Hon’ble Supreme Court in the cases of **Roop Singh Negi (supra)** and **B. V. Gopinath (supra)** has not laid down a hard and fast rule and would not be applicable in the facts situation of the present case.



**58.** Learned counsel has relied upon some judgments of this Court rendered by learned co-ordinate Benches of this Court in the case of **Mamta Verma Vs. The State of Bihar & Ors. (C.W.J.C. No. 9149 of 2022)** and **Kumari Manju Lata Vs. The State of Bihar & Ors. (C.W.J.C. No. 3361 of 2020)** to submit that forfeiture of 100 % pension of the petitioner in exercise of power under Rule 43(b) of the Pension Rules at this stage cannot be sustained. It is submitted that the appointment of the petitioners had taken place more than 30 years ago, therefore, the Memo under Rule 43(b) of the Pension Rules would be invalid.

**59.** This Court finds from the materials placed before this Court that in these cases of Category I, the proceeding under Rule 43(b) of the Pension Rules was initiated during the service period itself and those were converted after retirement of the petitioners and further in their first round of litigation, this Court had though quashed the impugned order of termination but at the same time granted liberty to the Regional Deputy Director of the concerned Divisions to proceed afresh. So far as the Category III cases are concerned, in those cases, the final decision is yet to be taken.

**60.** In the totality of the circumstances, since this Court has found that this is a case akin to and seems to be nearer to the case of appointments of Class III and Class IV posts in the Tuberculosis Eradication Scheme by Dr. Mallick and this Court has noticed the



judgment of the Hon'ble Supreme Court in the case of **Devendra Sharma** (supra), this Court finds no reason to interfere with the same.

**61.** This Court is therefore, of the considered opinion that the impugned orders need no interference in exercise of power of this Court under Article 226 of the Constitution of India.

### **Category II Cases**

**62.** In the category II cases, there are altogether nine writ applications. For reference, this Court would take the pleadings from CWJC No. 354 of 2023 (Nirmala Vs. State of Bihar and Ors).

**63.** In this writ application, the petitioner has challenged the order dated 09.12.2022 passed by State Appellate Authority in O.A. No. 419 of 2022 and also Memo No. 462 dated 09.10.2020 passed by Director (Administration) -cum- Additional Chief Secretary, Education Department, Government of Bihar (Respondent No. 2). The petitioners have also prayed for grant and payment of retiral benefits along with all other consequential benefits.

**64.** By the impugned order, the service of the petitioners have been terminated. The order of termination/dismissal from service was challenged by the petitioner Nirmala Bharti before the State Appellate Authority. The Chairperson (A) and the State Appellate Authority held that there was a departmental proceeding conducted after calling for an explanation from the petitioner. The petitioners were provided with a copy of the inquiry report and an opportunity to show cause, therefore, the principle of natural justice has been duly followed.



The appeal preferred by the petitioner has been disallowed. So far as other petitioners are concerned, they have also been dismissed from service on the ground that they were illegally appointed and their appointments were *void ab initio*.

65. In this category II what the CBI has found in course of preliminary inquiry are given hereunder in a tabular form case wise:-

Case No.	Party Name	Irregularities as noted in the remarks column by CBI in its' report with serial number	Impugned Order
C.W.J.C. No. 354 of 2023	Nirmala Bharti Vs. State of Bihar & Ors.	(16) She was appointed on the recommendation of politicians. There was no advertisement of the post in any local newspaper or agency or employment exchange. No roster clearance was obtained and there was no proceeding of any Select Committee.	State Appellate Authority's order dated 09.12.2022 in O.A No. 419/2022 and Memo No. 462 dated 09.10.2020 issued by the Director sum Spl. Secretary (Annexure 1 & 2)
C.W.J.C. No. 10338 of 2020	Prativa Kumari Vs. State of Bihar & Ors.	(65) She had been appointed by DI on the recommendation of politicians, again in her case also there was no advertisement and selection process	Memo No. 138 dated 17.03.2020 (Annexure-29)
C.W.J.C. No. 4123 of 2021	Mala Sinha Vs. State of Bihar & Ors.	(107) She had obtained appointment on the recommendations of the Politicians without following the proper procedure for the appointment.	Memo No. 1239 dated 21.09.2020 (Annexure-1)
C.W.J.C. No. 5011 of 2021	Shail Kumari Vs. State of Bihar & Ors.	(86) She was appointed without any advertisement of post	Memo No. 1238 dated 21.09.2020 (Annexure-1)



		and there was no proceeding of any select committee showing her selection through interview/test.	
C.W.J.C. No. 7498 of 2021	Pushpa Kumari Vs. State of Bihar & Ors.	<b>(165)</b> She might have applied for the post against advertisement of 88 but no General LSS Teacher was appointed against this advertisement. She was given appointment without following the procedure of the appointment. No Select Committee proceedings are available for her selection through interview.	Memo No. 887 dated 27.11.2020 (Annexure-1)
C.W.J.C. No. 14254 of 2021	Dr. Minni Kumari Vs. State of Bihar & Ors.	<b>(212)</b> She was appointed by the DI on temporary basis and was given repeated extensions. Although DIs are not competent to make appointment for State Cadre LSS post as held by the Jharkhand High Court in its order dated 06.09.2002 in CWJC No. 1110 and 1119 of 1995. Neither the posts were advertised in any local newspaper nor proceedings of any Select Committee are available for her selection through interview/test.	Memo No. 829 dated 12.07.2021 (Annexure-20)
C.W.J.C. No. 16446 of 2021	Ranju Bala Sharan Vs. State of Bihar & Ors.	<b>(137)</b> She was appointed on the recommendation of politicians directly without following the	Memo No. 813 dated 12.07.2021 (Annexure-17)



		procedure for such appointments.	
C.W.J.C. No. 17834 of 2021	Radha Devi Vs. State of Bihar & Ors.	<b>(11)</b> She was untrained having Diploma in Craft for one year in place of two years equivalent to BTC. She was given direct appointment on regular basis by the DI without following the proper procedure for such appointment. The posts were not advertised in any local newspaper and there is no proceeding of any Select Committee showing her selection through interview/test.	Memo No. 911 dated 24.08.2021 (Annexure-1)
C.W.J.C. No. 20552 of 2021	Ranjana Kumari Vs. State of Bihar & Ors.	<b>(157)</b> She applied directly to the Minister and she was given direct appointment on the recommendation of politicians without following the procedure of such appointment.	Memo No. 889 dated 17.11.2020 (Annexure-1)
C.W.J.C. No. 13989 of 2021	Sanju Kumari, Kumari Girija Sinha, Kanak Lata and Shobha Kumari Vs. State of Bihar & Ors.	<b>(129)</b> Sanju Kumari had applied for the post against Advertisement 88 but was not selected as no General LSS teachers were appointed against this advertisement. She was given direct appointment on the recommendation of politicians without following the procedure of such appointment. No Select Committee proceedings are available for her selection through	Memo No. 822, 821, 817, 889 dated 12.07.2021 & 16.07.2021 respectively (Annexure series) 1



		<p>interview/test.</p> <p><b>(193)</b> Kumari Girija Sinha was given temporary appointment by DI on the recommendation of politician without following the procedure for such appointments. She was over-aged by two months at the time of regular appointment. DIs are not competent to appoint LSS teachers which is a State Cadre post. No Select Committee proceedings are available for her selection through interview/test.</p> <p><b>(247)</b> Smt. Kanak Lata was appointed by DI on the recommendation of politicians on temporary basis and was given repeated extensions till appointment on regular basis. Although DIs are not competent to make appointment for State Cadre LSS post as held by the Jharkhand High Court in its order dated 06.09.2002 in CWJC No. 1110 and 1119 of 1995. Neither the posts were advertised in any local newspaper nor proceedings of any Select Committee are available for her selection through interview/test.</p> <p>Smt. Shobha Kumari was appointed by her mother but after three months she was not allowed to work. Later on, in view of Letter No.1444 dated 31.10.79 and HO letters 276 dated</p>	
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		20.04.91, 136 dt. 05.03.94 and 286 dt. 13.07.94 of D/Sec.Edu.(Not available on record), her services were regularized. She was appointed by DI without following the proper procedure for such appointments. Although DIs are not competent to make appointment for State Cadre LSS teachers being State Cadre post. No advertisement in any local newspaper was made.	
C.W.J.C. No. 3039 of 2020	Shanti Kumari Vs. State of Bihar & Ors.	<b>(205)</b> The DI, Aurangabad formed Select Committee in which only two women applied and both were selected and were given appointment by the DI on the recommendation of HM. However, the DIs are not competent to appoint LSS teachers which is a State Cadre post. No advertisement in any local newspaper was made.	Memo No. 423 dated 08.05.2017 & further through I.A., Memo No. - 888 dated 17.11.2020 (Annexture-1 series)
C.W.J.C. No. 9536 of 2020	Asha Singh Vs. State of Bihar & Ors.	<b>(87)</b> She was untrained when appointed as she had done one year Diploma in Craft against recruitment of two years equivalent to BTC. She was appointed on temporary basis on the recommendation of politicians without following the proper procedure for such	Memo No. 501 dated 24.03.2020 & further through I.A., Memo No. - 831 dated 12.07.2021 (Annexture - 9)



		<p>appointment. She was given repeated extension on the recommendation of politicians and Principal of concerned school and finally given regular appointment on the recommendation of politicians. The posts were not advertised in any local newspaper/through the agency of employment exchange. There are no proceedings of any Select Committee for her selection through interview/test. No roster clearance was obtained and reservation rule were not followed.</p>	
C.W.J.C. No. 9676 of 2020	Meena Singh Vs. State of Bihar & Ors.	<p><b>(72)</b> She was untrained when appointed on regular basis because her Craft Diploma is of one year whereas it is required to be of two years equivalent to BTC. She has been appointed on the recommendation of politicians without following the proper procedure for such appointment. No roster clearance was obtained and reservation rule were not followed. There was no advertisement of the vacancies in any local newspaper.</p>	<p>Memo No. 499 dated 24.03.2020 &amp; further through I.A., Memo No. - 819 dated 12.07.2021 (Annexure- 7)</p>
C.W.J.C. No. 9892 of 2020	Usha Kiran Sinha Vs. State of Bihar & Ors.	<p><b>(166)</b> She has been appointed on the recommendation of politician without</p>	<p>Memo No. 497 dated 24.03.2020 &amp; further through I.A., Memo No. -</p>



		following the procedure. No Select Committee proceedings are available for her selection by any interview/test. No roster clearance was obtained and reservation rule were not followed. There was no advertisement of the vacancies in any local newspaper.	868 dated 14.07.2021 (Annexure 8)
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**66.** This Court finds from the facts of the cases stated above that these petitioners are identically situated with the petitioners of the Ist Category save and except that in the Category II, the petitioners have been dismissed/terminated from the services whereas in Category I, action has been taken in terms of the pension rules.

**67.** For the reasonings and rationals provided in Category I, this Court takes a view that the petitioners in Category II are also not entitled for any relief. Their appointments are found to be illegal, arbitrary and capricious and *void ab initio*. They do not acquire any right of salary or the post retiral benefits.

### **Category III Cases**

**68.** In Category III cases, the petitioners have moved this Court against the letters issued under the signature of the Regional Deputy Director, Education calling upon them to submit their show cause within 15 days from the date of issuance of the letter. The letter has been issued with an inquiry report in which the Inquiry Officer has reported that the appointment of these petitioners have been found



illegal/irregular by the CBI in its report. Instead of submitting their second show cause, the petitioners have rushed to this Court in an attempt to stop the respondents from passing an appropriate order.

**69.** In this category III what the CBI has found in course of preliminary inquiry are given hereunder in a tabular form case wise:-

Case No.	Party Name	Irregularities as noted in the remarks column by CBI in its' report with serial number	Impugned Order
CWJC No. 490 of 2022	Madhu Kumari Vs. State of Bihar & Ors.	<b>(252)</b> She was appointed on regular basis by DI on recommendations of politicians. DIs are not competent to appoint LSS teachers which is a State Cadre post. No Select Committee proceedings are available for her selection through interview/test. The posts were not advertised in any local newspaper. No roster clearance was obtained and reservation rules were not followed.	Memo No. 971 dated 18.12.2021 (Annexture 4)
CWJC No. 492 of 2022	Sadhna Sharma Vs. State of Bihar & Ors.	<b>(249)</b> She was appointed on regular basis by DI on recommendations of politician. DIs are not competent to appoint LSS teachers which is a	Memo No. 976 dated 18.12.2021 (Annexture 1)



		State Cadre post. No Select Committee proceedings are available for her selection through interview/test. No roster clearance was obtained and reservation rules were not followed.	
CWJC No. 501 of 2022	Veena @ Veena Singh Vs. State of Bihar & Ors.	<b>(248)</b> She was appointed by DI on recommendations of select committee without following the proper procedure for such appointment. DIs are not competent to appoint LSS teachers which is a State Cadre post. No Select Committee proceedings are available for her selection through interview/test. No roster clearance was obtained and reservation rules were not followed.	Memo No. 974 dated 18.12.2021 (Annexure 1)
CWJC No. 564 of 2022	Ram Kumari Vs. State of Bihar & Ors	<b>(250)</b> She was appointed by DI on recommendations of BI without following the proper procedure for such appointment. DIs are not competent to appoint LSS teachers which is a State Cadre post. No Select Committee proceedings are available for her selection through interview/test. The	Memo No. 975 dated 18.12.2021 (Annexure 1)



		posts were not advertised in any local newspaper. No roster clearance was obtained and reservation rules were not followed.	
CWJC No. 622 of 2022	Kanchan Kumari Vs State of Bihar & Ors.	<b>(176)</b> She was untrained when appointed on the recommendations of politicians without following the proper procedure for such appointments. The posts were not advertised in any local newspaper or agency of employment exchange. No roster clearance was obtained and reservation rules were not followed. There are no proceedings of any Select Committee for her selection through interview/test.	Memo No. 981 dated 18.12.2021 ( Annexure 1)
CWJC No. 687 of 2022	Meera Devi Vs. State of Bihar & Ors.	<b>(33)</b> She was untrained when appointed on the recommendations of DI without following the proper procedure for such appointments. The posts were not advertised in any local newspaper or agency of employment exchange. No roster clearance was obtained and reservation rules were not followed.	Memo No. 977 dated 18.12.2021 (Annexure 1)



		There are no proceedings of any Select Committee for her selection through interview/test.	
CWJC No. 439 of 2022	Smt. Rita Rani, Vimla Kumari and Meera Pathak Vs. State of Bihar & Ors.	<p><b>(241)</b> She was over age by 3 years when appointed on regular basis by DI without following the procedure for such appointments. DIs are not competent to appoint LSS teachers which is a State Cadre post. No proceedings of any Select Committee are available for her selection through interview/test. The posts were not advertised in any local newspaper or agency of employment exchange. No roster clearance was obtained and reservation rules were not followed.</p> <p><b>(18)</b> She was appointed without following the procedure for such appointments. The posts were not advertised in any local newspaper or agency of employment exchange. No roster clearance was obtained and reservation rules were not followed. No proceedings of any Select Committee are</p>	Letter No. 978, 973, 972 dated 18.12.2021 (Annexure 33-35)



		available for her selection through interview/test. <b>(170)</b> She was over age by one year three months when appointed on regular basis on the recommendations of select committee. The post/vacancies were not advertised in any local newspaper or employment exchange. No roaster clearance of the post advertised in 88 was obtained and reservation rules were also not followed.	
CWJC No. 693 of 2022	Smt. Tara Singh Vs. State of Bihar	<b>(115)</b> She was appointed on the recommendations of politicians without following the proper procedure for such appointments. The posts were not advertised in any local newspaper or agency of employment exchange. No roster clearance was obtained and reservation rules were not followed. There are no proceedings of any Select Committee for her selection through interview/test.	Memo No. 1388 dated 24.11.2021 (Annexure 11)
CWJC No. 4981 of 2022	Rekha Kumari & Sri Sanjay Bihari Pandit Vs. State of Bihar &	<b>(56)</b> She was having no Science background but	Office Order vide letter no. 1472, 1464 dated 27.10.2018 and



	Ors.	<p>appointed as Lab-W.shop Asstt. By the BI without following the proper procedure for such appointments. The posts were not advertised in any local newspaper or agency of employment exchange. No roster clearance was obtained and reservation rules were not followed. There are no proceedings of any Select Committee for her selection through interview/test.</p> <p><b>(60)</b> Sri Sanjay Bihari Pandit was appointed on recommendation of politicians. There are no select committee proceeding for his selection through interview/test. He being a man can't be appointed in women wing of LSS teachers. The posts/vacancies were not advertised in any local newspaper. No roster clearance of the post to be advertised was obtained and reservation rules were also not followed.</p>	letter no. 1005 dated 02.08.2018 (Annexture -1 series)
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**70.** One person, namely, Sanjay Bihari Pandit is a male but was appointed in LSS (women) cadre.

**71.** In C.W.J.C. No. 439 of 2022 and C.W.J.C. No. 4981 of 2022, the petitioners have also challenged the inquiry report. The facts of C.W.J.C. No. 693 of 2022 (Smt. Tara Singh Vs. The State of Bihar and Ors) are slightly different inasmuch as against her a proceeding under Rule 43(b) of the Pension Rules has been initiated vide Memo No. 1388 dated 24.11.2021 (Annexure '11' to the writ application). She has been served with a memo of charge dated 24.11.2021 (Annexure '12'). It is her contention that she has superannuated from her service on 30.11.2014 itself. It, however, transpires on perusal of Annexure '11' to the writ application that the proceedings were initiated against this petitioner earlier and the same was converted into a proceeding under Rule 43(b) of the Pension Rules vide Memo No. 1855 dated 24.08.2016 which was within a period of two years from the date of her attaining the age of superannuation. By Annexure '11', the Inquiry Officer and Presenting Officer have been appointed. As regards the petitioner Smt. Tara Singh, CBI has found in its preliminary report that she was over-aged and had been appointed on the recommendation of the politicians without following proper procedure for such



appointments. No advertisement of the post was made by any local newspaper.

**72.** The materials available on the record would show that this petitioner has been called upon to participate in the inquiry by Letter No. 513 dated 17.12.2006. In the writ application, there is no averment that the proceeding against the petitioner was not converted under Rule 43(b) in the year 2016. Her alleged illegal appointment took place in the year 1982 but that illegality allegedly continued till her retirement, therefore, a challenge to the initiation of the proceeding under Rule 43(b) would not be tenable.

**73.** Be that as it may, this Court is of the considered opinion that the petitioners in category III should have co-operated in course of inquiry by submitting their response and participation before the Inquiry Officer and the disciplinary authority. Instead of doing that, their effort is to somehow prolong the ongoing inquiry and culmination of the disciplinary proceeding. In their cases also, the principle of natural justice is being followed by the State-respondents.

**74.** Thus, this Court finds no reason to interfere with the impugned office memo, the charge and/or the inquiry report in this writ application. The petitioners must participate in the inquiry,



submit their second show cause within a period of two weeks from today whereupon the Inquiry Officer/ disciplinary authority, as the case may be, shall proceed in the matter and take appropriate steps/decision. If they have attained the age of superannuation, the disciplinary authority shall consider converting the proceeding under Rule 43(b) of the Pension Rules and pass an appropriate order within three months from the said date.

75. Before this Court parts with its judgment, the Court finds it just and proper to record that in all these writ applications, learned counsel for the petitioners have raised plea of violation of principles of natural justice. They have gone to the extent of submitting that the CBI has not examined the appointees, however, this Court has noticed from the preliminary report of the CBI that they have examined some of the appointees also. The petitioners have been given enough opportunity to rebut the specific case of the respondent-State in term of the Memo of Charge that the appointments in Category-I and Category-II cases were done without advertisement and selection procedure. In category-III cases the State-Respondent have served second show cause on the petitioners. This Court is of the considered opinion that where the illegality writs large on the face of the kind of allegations made in the preliminary inquiry, the principle of natural justice cannot be



stretched to the extent of rejecting the report of the CBI as a waste paper. It is to be remembered that the matter relating to illegal appointments of these petitioners were raised as back as in the year 1998 and the inquiry report of the CBI was submitted in the year 2004 itself. But it was kept pending for no valid reason and had the Hon'ble Division Bench of this Court not called upon the Principal Secretary of the Education Department, Government of Bihar to explain as to why no action has been taken on the inquiry report of the CBI, the matter would have remained as it is.

76. The huge delay on the part of the State respondents by sitting over the preliminary inquiry report of the CBI has done a lot of damage to the interest of the State. The delay alone has given rise to a spacious plea that at this stage the petitioners have continued over 30 years, therefore, no action may be taken against them in accordance with law. Although this Court has negated this plea but at the same time it is noticed that by virtue of the appointments which were wholly illegal, public money has been disbursed to the illegal appointees conferring them the benefits of pay and perks during all these years. This Court being a constitutional Court sitting under Article 226 of the Constitution of India deems it just and proper to take judicial notice of the principles of public accountability. The case of **Vineet Narain and**



**Ors. Vs. the Union of India and Ors.** reported in (1996) 2 SCC 199, is a step forward towards accountability in public life. The preliminary investigation report of the CBI is clearly indicating towards extraneous consideration which has taken place in the matter of large scale appointments and promotions in the LSS (Women wing) in the State of Bihar during the period 1980-1998. The case was handed over to CBI but why CBI remained contented by only submitting a preliminary inquiry report is something which is required to be looked into by the CBI itself at this stage. This Court is concerned because it is of the opinion that those who were involved in keeping aside the law and the procedures for appointment on public post should not be allowed to go scot-free only because they have succeeded in somehow stalling the consequential action. In the totality of the circumstances, this Court is of the considered opinion as under:-

(i) The CBI should take the case to a logical end. Its' preliminary inquiry report is available on the record indicating the manner in which appointments were done on political recommendations and by the authorities in the Education Department who were not competent, without advertisement and without there being any selection process. The CBI is, therefore, obliged to consider as to whether or not its' preliminary report should be converted in a regular



case and the matter be investigated in accordance with law for its logical conclusion; and

(ii) The Additional Chief Secretary of the Education Department, Government of Bihar is also required to look into the reason(s) for the huge delay in not taking the consequential action pursuant to the report of the CBI submitted in the year 2004. Those who are behind this inaction are required to be identified and appropriate action is to be considered.

77. Accordingly, this Court having taken judicial notice of the above mentioned facts emerging from the pleadings on the record and finding that the CBI is already party respondent in some of the writ applications, directs the Director, CBI and the Additional Chief Secretary, Department of Education, Government of Bihar to consider taking appropriate action within a period of one month from the date of receipt/communication of this order.

78. These writ applications are, thus, disposed of in the aforesaid terms.

**(Rajeev Ranjan Prasad, J)**

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CAV DATE	12.09.2023
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