

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9179 of 2019**

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1. Arbind Kumar Chaudhary Son of Late Ram Punit Chaudhary, R/o Khadi Bhandar Chowk, Nagar Panchayat Road, Ward No. 10 Bakhri, P.O. and P.S.- Motipur, District- Muzaffarpur- 843111.
2. Ishtiyaque Ahmad, S/o Late Abdul Kalam, Saidpur, P.O.- Parsa, P.S.- Dariyarpur, District- Saran, Bihar.- 841219.
3. Amarendra Kumar Sourabh, S/o Late Gokhula Prasad Singh, R/o Mohalla- Pokhra, Mednimal, P.O. and P.S.- Hajipur, District- Vaishali, Bihar- 844101.
4. Ravi Kant Verma, S/o Late Bal Krishan Varma @ Late Balkrishna Verma, R/o House No. 192, Bharat Bharti School Road, Ander Quila, P.O and P.S.- Hajipur, District- Vaishali, Bihar- 844101.
5. Rajeev Ranjan Tiwari, S/o Late Baban Tiwari, R/o Village- Tekniwas, P.O.- Kachnar, P.S.- Rivilganj, District- Saran- 841214.
6. Rajiv Ranjan @ Rajeev Ranjan, S/o Late Mohan Prasad, R/o Village and P.O.- Sheetalpur, P.S.- Dighwara, District- Saran.
7. Ritesh Kumar Pandey, S/o Late Lalan Pandey, R/o Village- Godna Brahmtole, P.O. and P.S.- Revelganj, District- Saran- 841305.
8. Randhir Kumar, S/o Late Ram Naresh Ray, R/o Village- Dhane Chapra, P.O.- Pojhi Parsa, P.S. Derni, District- Saran- 841219.
9. Prabhat Kumar, S/o Late Daya Shankar Singh, R/o Hanumant Nagar, Lakshmipur, Near Pani Tanki, P.O. and P.S. and District- Siwan- 841226.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
2. Principal Secretary, Department of General Administration, Government of Bihar, Old Secretariat, Patna.
3. Joint Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
4. District Compassionate Committee, Saran through the District Magistrate-cum-Collector, Saran.
5. District Magistrate, Saran.
6. District Education Officer, Saran.



7. District Programme Officer (Establishment), Saran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.  
Mr. Sumit Kumar Jha, Adv.  
For the Respondent/s : Mr. Mrigendra Kumar, AC to GP-20

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**CAV JUDGMENT**

**Date : 24-12-2021**

The present writ petition has been filed for quashing memo dated 07.03.2019, issued by the Respondent No. 1 bearing the signature of the Respondent No. 3 i.e. the Joint Secretary, Department of Education, Government of Bihar, Patna whereby and whereunder the Government of Bihar, in compliance of the order passed by the Hon'ble Apex Court in Civil Appeal No. 4776-4777/2017 (Mukesh & Another vs. State of Bihar & Others) dated 03.04.2017, has taken the following decisions:-

(i) If the competent Compassionate Appointment Committee has recommended the case of the dependent of the deceased Government Teacher for appointment on



Class III and Class IV posts or on the post of teacher on compassionate ground prior to 01.07.2006 then appointment of such candidate shall be made on the post for which recommendation has been by the Compassionate Appointment Committee in the regular pay-scale.

(ii) In compliance of the aforesaid Order, appointment on Compassionate ground shall be made on the regular post of teacher and in the regular pay-scale, only against the available vacancy.

(iii) This order shall be applicable only with regard to the parties of the case in reference and that of the enclosed case.

(iv) The letter of the Education Department dated 12.01.2018 is surpassed by the present order.

(v) This Order shall be enforced with effect from 12.01.2018.



2. The brief facts of the case are that the father of the petitioners herein died in harness prior to 01.07.2006 and at that time, no family members of the petitioners were in any service. The petitioners being intermediate pass or possessing qualification higher than intermediate pass, at the relevant time, had made applications for appointment on compassionate ground before the concerned respondents in the year 2006, whereafter their cases were recommended for appointment on compassionate ground on the regular post of Teacher by the District Compassionate Committee, Saran. While the petitioners no. 1 to 8 were recommended vide letter dated 15.01.2007, the petitioner no. 9 was recommended vide letter dated 19.11.2007. Thereafter, the petitioners were appointed on the contractual post of Panchayat / Block Teacher as per the Bihar Panchayat Primary Teacher/Municipal Teacher (Appointment & Service Conditions) Rules, 2006 (hereinafter referred to as the 'Rules 2006'). The petitioners no. 1 to 8 had then joined as contractual teacher in the year,



2007 while the petitioner no. 9 had joined in the year, 2008. At this juncture, it is submitted that the post of Panchayat / Block Teacher / Town Teacher is not a Government post and in such view of the matter, even the Government of Bihar, by a letter dated 17.10.2008, issued under the pen and signature of the Dy. Secretary to the Government, Depart. of Labour & Administrative Reforms, had clarified that the post of Panchayat Teacher / Block Teacher/ Town Teacher is not a post under the Govt. of Bihar, hence, no recommendation for appointment on compassionate ground can be made for such posts. In fact, the petitioners are stated to have been recommended to be appointed on regular vacant posts.

3. The petitioners no. 1 to 6 and 9 had then approached this Court by filing various writ petitions bearing C.W.J.C. No. 17953 of 2008, C.W.J.C. No. 3638 of 2008, C.W.J.C. No. 721 of 2008, C.W.J.C. No. 14855 of 2008, C.W.J.C. No. 654 of 2008, C.W.J.C. No. 1461 of 2008 and C.W.J.C. No. 14420 of 2009, which were allowed vide order



dated 08.01.2010, passed by a coordinate Bench of this Court and the respondents were directed to consider the case of the said petitioners for appointment in light of the letter no. 6905 dated 17.10.2008, issued by the Personnel & Administrative Reforms Department, Government of Bihar, Patna, wherein it has been clearly pointed out that the posts of Panchayat / Prakhand / Nagar Shikshaks are not under the State Government and with respect to such posts, the District Compassionate Appointment Committee cannot make any recommendations and further, this Court had directed the respondents to appoint the said petitioners on Government posts as per the recommendation of the Compassionate Committee and allow the petitioners regular pay scales of an Assistant Teacher.

4. It is the further case of the petitioners that when they had come to know about pendency of a similar case before the Hon'ble Apex Court, they had also preferred Special Leave Petitions bearing SLP (C) No. 39424 of 2013, SLP (C) No. 7357 of



2014 and SLP (C) No. 29655 of 2010, which were disposed of by a judgment dated 03.04.2017 along with the lead case i.e. **Mukesh & Another vs. State of Bihar & Others**, reported in **(2017) 5 SCC 383**, with the following directions:-

"6. For the foregoing reasons, we direct that the appellants who were recommended for appointment to Class III or Class IV posts prior to 1-7-2006 will either be appointed on Class III or Class IV posts on regular basis or will be entitled for continuance as Teachers on a regular pay scale. The other appellants who were appointed after 1-7-2006 will not be entitled for the relief of regular pay scales. However, we grant them liberty to approach the State Government for suitable relief in terms of the order passed in *Rajiv Ranvijay Kumar v. State of Bihar*."

At this juncture, it may be relevant to refer to the directions issued by the Hon'ble Apex Court in the case of ***Rajiv Ranvijay Kumar v. State of Bihar***, reported in **2012 SCC OnLine SC 1104**, wherein it was directed as follows:-

"The counsel for the respondent State submits that if the petitioners withdraw this



petition and move the authorities concerned, their cases shall be considered by the authorities concerned keeping in view the facts and circumstances of each case. In view of the above statement, the petitioners are permitted to withdraw this special leave petition with liberty to move the authorities concerned who shall take a decision thereon expeditiously. In view of the order passed above, the application for intervention does not survive and the same is dismissed.”

5. The petitioners had then made their representation before the authorities. In the meantime, the Respondent No. 1 had issued a memo dated 12.01.2018 whereby and whereunder it was notified that all the heirs / dependents of all such employees who had died in harness prior to 01.07.2006 shall be entitled for regular appointment on regular pay-scale. In compliance thereof, the DEO, Saran & DPO, Saran had appointed the petitioners on regular post of Teacher on 24.2.2018.

6. In the meantime, the learned Division Bench, by a judgment dated 18.04.2018, passed in the



case of **The State of Bihar & Ors. Vs. Rhituraj Saraubh & Anr.**, reported in **2019 (1) PLJR 444**, held that the aforesaid advisory of the State Government, contained in memo no. 38 dated 12.01.2018, issued by the Education Department, binds the State Government to act on the recommendation of the District Compassionate Committee, nonetheless, the appointment of the petitioners was terminated, leading to them filing yet another writ petition bearing CWJC No. 8843 of 2018, which was disposed of by this Court by a judgment dated 08.01.2019 with a direction to the District Programme Officer (Establishment), Saran at Chhapra to decide the case of the petitioners, upon the petitioners filing appropriate representation, in light of the judgment dated 11.05.2018 passed in CWJC No. 8963 of 2018 (*Chandra Shekhar Azad & Anr. vs. The State of Bihar & Ors.*). In compliance of the aforesaid order dated 08.01.2019, the DEO, Saran and DPO, Saran have appointed the petitioners on regular post of Teacher vide memo dated 21.02.2019.



7. It is the further case of the petitioners that vide memo dated 07.03.2019 i.e. the impugned order in the present case, the aforesaid memo dated 12.01.2018 has been withdrawn whereby and whereunder it has been postulated that heirs / dependents of all such employees, who have died in harness prior to 01.07.2006, shall be entitled for regular appointment on regular pay-scale.

8. The learned Senior Counsel for the petitioners, Sri Y.V. Giri, has submitted that the learned Single Judge, by an order dated 01.08.2019, had referred a writ petition bearing CWJC No. 15626 of 2019 (*Chandra Shekhar Azad & Ors. vs. The State of Bihar & Ors.*) to a Larger Bench to consider the following issues:-

1. Whether the post of Assistant Teacher is Dying Cadre after 2006?
2. Whether the Court can induct any teacher in Dying Cadre?
3. Whether the petitioners, who were regularized pursuant to the judgment of the Division Bench on declaration of law by the



Apex Court, can claim that the judgment interparty is binding and therefore, they have right to continue on regular post of Assistant Teacher on compassionate ground notwithstanding the post of Assistant Teacher is a Dying Cadre?

4. Whether the compassionate appointment against any Dying Cadre is permissible?

5. Whether the judgment of the Apex Court in the case of State of Bihar & Ors. Vs. Bihar Secondary Teachers Struggle Committee and others (supra) is settler on the point that the cadre of Assistant Teacher is a Dying Cadre and applies to the case of the present petitioners.

6. In addition thereto, the larger Bench has to consider the judgment of the Apex Court which was the basis for taking decision dated 19.07.2019 by the respondents, as contained in Annexure-16 to the writ petition.

The learned Division Bench of this Court, by a judgment dated 13.2.2020 passed in the aforesaid writ petition bearing CWJC No. 15626 of 2019 (*Chandra Shekhar Azad & Ors. vs. The State of Bihar & Ors.*), had answered the aforesaid



reference in the following terms:-

“**30.** So far as 4th question is concerned, I am of the considered opinion that now after the judgment of the Hon’ble Supreme Court in the case of **Mukesh & Anr.** (supra) appointment on compassionate ground in the dying cadre of Assistant Teacher was permissible only in the cases where the recommendation for appointment was made by the Committee prior to 01.07.2006 but in view of the liberty granted to take a decision in respect of those who had been recommended after 01.07.2006 if the State Government took a decision vide Memo No. 38 dated 12.01.2018 to appoint these petitioners who were wards of the Government Teachers who had died prior to 01.07.2006 and by virtue of such decision these petitioners have already been appointed, there is nothing on the record to show that it was result of a wrong understanding of the judgment of the Hon’ble Apex Court.

**31.** The fifth question as to whether the judgment of the Hon’ble Apex Court in the case of **Bihar Secondary Teachers Struggle Committee & Ors.** (supra) is a settler on the point that the cadre of the Assistant Teacher is dying cadre, I am of the view that the State



Government having taken a plea before the Hon'ble Supreme Court that the cadre of the Assistant Teacher is a dying cadre and the same has been accepted by the Hon'ble Apex Court, it has to be taken as a settler on the point that the cadre of the Assistant Teacher is a dying cadre but the question as to whether it applies to the case of the present petitioners, I am of the view that it would not apply to the facts of the present case, therefore, these petitioners would not be affected. These petitioners have been appointed as Assistant Teachers by virtue of the direction of this Court which has attained finality. The judgment of the Hon'ble Supreme Court is in a case in which the issue of dying cadre was raised by way of a submission only to contest the claim of equal pay for equal work by Niyojit Shikshak.

**32.** In the sixth and last question the learned Single Judge has observed that the Larger Bench has to consider the judgment of the Hon'ble Apex Court which was the basis for taking decision dated 19.07.2019 by the respondents as contained in Annexure 16 to the writ application. Annexure '16' is being reproduced hereunder:

“पत्रांक – 7/मु 1-76/2018.....  
बिहार सरकार



**शिक्षा विभाग,**

प्रेषक,

अरविन्द कुमार वर्मा, भा0प्र0से0  
निदेशक, प्राथमिक शिक्षा।

सेवा में,

जिला शिक्षा पदाधिकारी, मधेपुरा,  
जिला कार्यक्रम पदाधिकारी (स्थापना), मधेपुरा।  
पटना, दिनांक -...../

विषय: - CWJC No. 8963/2018 चन्द्रशेखर आजाद एवं अन्य  
बनाम बिहार सरकार एवं अन्य में पारित न्यायादेश के अनुपालन  
के संबंध में।

प्रसंग :- आपके कार्यालय आदेश ज्ञापांक 1120 दिनांक 17.09.2018

महाशय,

उपर्युक्त विषयक प्रासंगिक आदेश के संबंध में सूचित करना है कि  
माननीय सर्वोच्च न्यायालय, नई दिल्ली में दायर SLP (C) No. 31158 -  
31159/2013 से उद्भूत सिविल अपील संख्या 4676-4777/2017  
मुकेश एवं अन्य बनाम बिहार राज्य एवं अन्य में दिनांक 03.04.2017 को  
पारित आदेश के आलोक में विभागीय पत्रांक 336 दिनांक 07.03.2019  
के द्वारा निम्न प्रावधान किया गया है। -

“यदि सक्षम अनुकम्पा समिति द्वारा मृत सरकारी शिक्षक के आश्रित  
को दिनांक 01.07.2006 के पूर्व वग III एवं IV के पद पर अथवा शिक्षक  
के पद पर अनुकम्पा के आधार पर नियुक्ति हेतु अनुशंसा की गयी हो  
तो अभ्यर्थी की नियुक्ति सक्षम अनुकम्पा समिति द्वारा अनुशंसित पद पर  
नियमित रूप से नियमित वेतनमान पर की जाय। उक्त आदेश के  
अनुपालन में अनुकम्पा के आधार पर शिक्षक के नियमित पद एवं  
नियमित वेतनमान पर नियुक्ति उपलब्ध रिक्ति के विरुद्ध ही की जाय।  
इस प्रकार दिनांक 01.07.2006 के उपरांत जिला अनुकम्पा समिति की  
अनुशंसा पर कार्रवाई करना उक्त निर्देश के प्रतिकूल है।

माननीय उच्च न्यायालय, पटना में दायर CWJC No. 8963/2018  
चन्द्रशेखर आजाद एवं अन्य बनाम बिहार सरकार एवं अन्य में दिनांक  
11.05.2018 को पारित न्यायादेश के आलोक में प्रासंगिक आदेश के द्व  
ारा कुल 16 वादीगण की नियुक्ति मैट्रिक प्रशिक्षित वेतनमान के



नियमित रिक्त पद पर नियमित वेतनमान में की गयी है, जिनकी अनुशांसा अनुकम्पा समिति द्वारा दिनांक 01.07.2006 के बाद अर्थात् 20.09.2006 का होने के कारण प्रश्नगत मामला उक्त विभागीय निदेश के अनुकूल नहीं है।

अतः उक्त विषयांकित मामले में वादी के अभ्यावेदन पर पुर्नविचार करते हुए विभागीय पत्रांक 336 दिनांक 07.03.2019 द्वारा लिए गए विभागीय निर्णय के आलोक में अपने आदेश में नियमानुसार आवश्यक संशोधन कर कृत कार्रवाई से निदेशालय को शीघ्र अवगत कराया जाय।

विश्वासभाजन  
ह0/-  
(अरविन्द कुमार वर्मा)  
निदेशक,  
प्राथमिक शिक्षा

ज्ञापांक - 7/मु0 1-76/2018 944 पटना/दिनांक-19/07/19/  
प्रतिलिपि :- सभी जिला शिक्षा पदाधिकारी, बिहार/ सभी जिला कार्यक्रम पदाधिकारी (स्थापना), बिहार को सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित।

निदेशक,  
प्राथमिक शिक्षा”

**33.** A bare reading of Annexure '16' would show that the same has been issued in the light of the judgment of the Hon'ble Supreme Court in the case of **Mukesh & Anr.** (supra). It is true that in the case of **Mukesh & Anr.** (supra) the Hon'ble Supreme Court held that only those applicants whose cases were recommended for appointment on compassionate ground prior to 01.07.2006 would be entitled for appointment on the regular post in regular pay-scale and the other appellants



who were appointed after 01.07.2006 will not be entitled for relief of regular pay-scale but at the same time liberty was granted to those appellants to approach the State Government for suitable relief in terms of the order passed in S.L.P. (c) No. 29655 of 2010 as noticed above. In S.L.P. (C) No. 29655 of 2010 which arises out of the judgment of the Hon'ble Full Bench of this Court in the case of **Rajeev Ranvijay Kumar** (supra). In the case of **Rajeev Ranvijay Kumar** (supra) the State Government took a plea that if the appellants withdraw the appeal, the State would be considering their cases keeping in view the facts and circumstance of each case. In view of that statement of the State, **Rajeev Ran Vijay Kumar** and others, who were the petitioners/appellants, withdrew the Special Leave Petition with liberty to move the authorities concerned. Thereafter, the State respondents considered their cases and appointed them as Assistant Teacher in the cadre. Therefore, the whole reading of the judgment of the Hon'ble Apex Court in the case of **Mukesh & Anr.** (supra) would show that by granting liberty these petitioners were also placed in the same position as **Rajeev Ran Vijay Kumar** (supra) and it was open for the Government to consider their cases. Un-



der these circumstances, if the State Government considered their cases and granted them the benefit of compassionate appointment as Assistant Teacher and upon reconsideration once again pursuant to the judgment of this Court in C.W.J.C. No. 8963 of 2018 if the petitioners have been recommended for appointment as Assistant Teachers in the cadre, by taking a plea that it was result of misunderstanding and an exercise in violation of the judgment of the Hon'ble Apex Court as contained in Annexure '16' to the writ application, the petitioners cannot be ousted from the cadre.

**34.** The reference is, thus, answered in the aforesaid terms.”

9. *Per contra*, the learned counsel for the State has not been able to distinguish the present case from the judgments rendered in the case of Mukesh & Anr. (supra), Rhituraj Saraubh & Anr. (supra) and *Chandra Shekhar Azad & Anr.* (supra).

10. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the petitioners no. 1 to 8 had been appointed in the year, 2007 while the pe-



petitioner no. 9 was appointed in the year, 2008 on contract basis on the post of Panchayat / Block Teachers, in pursuance of their father having died prior to the cut off date i.e. 01.07.2006 and recommendations having been made by the District Compassionate Appointment Committee to appoint them on regular vacant Class III or Class IV posts. However, since the State Government had held that the post of Panchayat Teacher / Block Teacher / Town Teacher is not a post under the Government of Bihar, no recommendation for appointment on compassionate ground can be made for such posts, the petitioners no. 1 to 6 and 9 had approached this Court and this Court, by an order dated 08.01.2010, had allowed the writ petitions with a direction to the Respondent-State to appoint the petitioners as per the recommendation made by the District Compassionate Appointment Committee.

11. In the meantime, it appears that similar type of case was under consideration before the Hon'ble Apex Court i.e. the case of the Mukesh & Another



vs. State of Bihar & Others, hence, the petitioners had preferred special leave petitions, which were tagged with the said case of Mukesh & Another (supra) and finally, all the said cases were disposed of by the Hon'ble Apex Court by a judgment dated 03.04.2017, reported in (2017) 5 SCC 383 and it was directed that such appellants, who were recommended for appointment to Class III or Class IV posts prior to 01.07.2006 will either be appointed on Class III or Class IV posts on regular basis or will be entitled for continuance as Teachers on a regular pay scale and those who have been appointed after 01.07.2006 shall not be entitled for the relief of regular pay-scale, but they shall be entitled to approach the State Government for suitable relief. In view of issuance of such directions by the Hon'ble Apex Court, the petitioners had made representation before the Respondent-State and during the interregnum period, the Respondent No. 1 had issued a circular dated 12.01.2018 whereby it was notified that all the heirs / dependents of all the employees, who had died in harness prior to



01.07.2006, shall be entitled for regular appointment on regular pay-scale, hence, in compliance to the said notification dated 12.01.2018, the DEO, Saran and the DPO, Saran had appointed the petitioners on regular post of Teacher on 24.02.2018, however, subsequently, such appointment of the petitioners were cancelled vide memo dated 12.03.2018, which was challenged by the petitioners in CWJC No. 8843 of 2018 and the said writ petition was disposed of by this Court by a judgment dated 08.01.2019, with a direction to the District Programme Officer (Establishment) Saran at Chhapra to decide the matter of the petitioners in light of the judgment passed in CWJC No. 8963 of 2018 i.e. in light of the judgment dated 11.05.2018, passed in the case of **Chandra Shekhar Azad & Anr.**(supra). In compliance of the judgment of this Court dated 08.01.2019, the DEO, Saran and DPO, Saran had again appointed the petitioners on regular post of Teachers vide memo dated 21.02.2019.

12. The State Government has now issued another



order, as contained in memo dated 07.03.2019 whereby and whereunder the aforesaid letter dated 12.01.2018 has been withdrawn and it has been postulated that only if the competent Compassionate Appointment Committee has recommended the case of the dependent of the deceased Government Teacher for appointment on Class III and Class IV posts or on the post of teacher on compassionate ground prior to 01.07.2006 then appointment of such candidate shall be made on the post for which recommendation has been by the Compassionate Appointment Committee in the regular pay-scale. Thus, the petitioners fear that though their deceased father have died prior to 01.07.2006, but since the recommendations have been made in their case by the District Compassionate Appointment Committee after 01.07.2006, their appointment on the post of Teacher in the regular pay-scale may be cancelled.

13. This Court finds from a bare perusal of the materials available on record that firstly, the case of the petitioners was remitted by the Hon'ble



Apex Court by a judgment rendered in the case of Mukesh & Anr. (supra) for consideration by the State Government, whereupon the petitioners had approached the State Government by filing appropriate representations, resulting in them being appointed on regular post of Teacher by the DEO Saran and DPO, Saran on 24.02.2018, however, the same was cancelled subsequently vide memo dated 12.3.2018, whereupon the petitioners had approached this Court by filing a writ petition bearing CWJC No. 8843 of 2018, which was disposed of by this Court by a judgment dated 08.01.2019 with a direction to the District Programme Officer (Establishment) Saran at Chhapra to decide the matter of the petitioners in light of the judgment passed by a coordinate Bench of this Court in the case of *Chandra Shekhar Azad & Anr.* (supra) and in compliance thereof, the DEO, Saran and DPO, Saran had appointed the petitioners on regular post of Teacher vide memo no. 412/Chhapra dated 21.02.2019. Therefore, this Court is of the view that once the Respondents have acted in compli-



ance of the judgment of this Court dated 08.01.2019 passed in CWJC No. 8843 of 2018 and have appointed the petitioners on regular post of Teacher vide memo dated 21.02.2019, no interference can be made with their service condition at this juncture, de hors the fact that the State Government has issued the aforesaid circular dated 07.03.2019, which is held to be inapplicable in the present case, inasmuch as firstly the same is a subsequent event and secondly, a bare reading of the judgment of the Hon'ble Apex Court, rendered in the case of **Mukesh & Anr.** (supra), would show that by granting liberty these petitioners were also placed in the same position as **Rajeev Ran Vijay Kumar** (supra) and it was open for the Government to consider their cases, hence, if the State Government considered their cases and granted them the benefit of compassionate appointment as Teachers vide earlier Order dated 24.02.2018 and upon reconsideration once again, pursuant to the judgment of this Court in C.W.J.C. No. 8843 of 2018, if the petitioners have been appointed as



Teachers in the cadre, the petitioners cannot now be ousted from the cadre. This Court is thus of the considered view that the present case is squarely covered by the judgments rendered by the learned Division Bench of this Court in the case of Rhituraj Saraubh & Anr.(supra) and the one rendered by the learned Division Bench of this Court in the case of *Chandra Shekhar Azad & Ors. (supra)*.

14. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the writ petition stands allowed and it is declared that the Respondents shall not interfere with the appointment of the petitioners made on the regular vacant post of Teacher/ Assistant Teacher in the regular pay-scale vide memo no. 412 dated 21.02.2019, issued by the District Education Officer, Saran and by the District Programme Officer (Establishment), Saran.

**(Mohit Kumar Shah, J)**

Ajay/-

AFR/NAFR	AFR
CAV DATE	27.08.2021
Uploading Date	29.01.2022
Transmission Date	NA

