

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.456 of 2021
In
Civil Writ Jurisdiction Case No.7938 of 2020

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Bhagalpur, At and P.O.- Bhagalpur.
4. The District Education Officer, Bhagalpur, At and P.O.- Bhagalpur.
5. The District Programme Officer (Establishment), Bhagalpur, At and P.O.- Bhagalpur.

... .. Appellants

Versus

1. Manoj Kumar Son of Arjun Prasad Singh Resident of Naya Tola Naugachia, P.O.- Naugachia, District- Bhagalpur, Pin Code- 853204.
2. Dhananjay Kumar Sharma S/o Kasturi Prasad Sharma, Resident of Village Parbatta, P.S.- Ismilepur, District- Bhagalpur.
3. Sarita Kumari W/o Rajeev Kumar Ranjan, Resident of Village- Mil Tola, PS- Naugachia, District- Bhagalpur.
4. Ajit Kumar Paswan S/o Vivekanand Paswan, Resident of Village Jhandapur, Ward No.10, P.S.- Bihpur, District- Bhagalpur.
5. Rajeev Kumar Raman S/o Naresh Das, Resident of Village Sahu Parbatta, P.S.- Naugachia, District- Bhagalpur.
6. Rani Kumari W/o Ashik Kumar Nirala, Resident of Village- Nagrah, P.S.- Naugachia, District- Bhagalpur.
7. Mukesh Kumar Rajak S/o Banarsi Resident of Village Abhiya, Bazar, P.S.- Gopalpur, District- Bhagalpur.
8. Rubi Kumari W/o Vivekanand Mandal, Resident of Village Sadhua, P.S.- Rangra Chowk, District- Bhagalpur.
9. Lucy Kumari D/o Giro Roy, Resident of Village Tetri, P.S.- Naugachia, District- Bhagalpur.
10. Ranjana Kumari D/o Arun Prasad Singh, Resident of Village Pakra, P.S. Naugachia, District- Bhagalpur.
11. Punam Kumari D/o Umesh Rajak, Resident of Village Mahadhopur, P.S. Naugachia, District- Bhagalpur.
12. Kanchan Kumari W/o Pradip Prasad Bhagat, Resident of Village Dholbajja, P.S.- Kodwa (Dholbajja), District- Bhagalpur.
13. Md. Kaushar Ali S/o Md. Idris Ali, Resident of Muslim Tola, Pakra, Ward No.14, P.S.- Naugachia, District- Bhagalpur.
14. Mukesh Kumar S/o Lakshman Das, Resident of Village Kamalpur, P.S.- Sazour, District- Bhagalpur.
15. Renu Kumari W/o Mukesh Sharma, Resident of Village Pakra, P.S.-



Naugachia, District- Bhagalpur.

16. Nilam Kumari W/o Rajeev Kumar, Resident of Bagri Tola Kadwa, P.S.- Dholbajja, District- Bhagalpur.
17. Swati Kumari w/o Akhilesh Kumar, Resident of Dharhara, P.S.- Gopalpur, District- Bhagalpur.
18. Ashish Kumar S/o Shukdeo Prasad Mandal, Resident of Village Ashram Tola Kadwa, P.S.- Naugachia, District- Bhagalpur.
19. Anoj Sah S/o Jaleshwar Sah, Resident of Village- Hario, P.S.- Bihpur, District- Bhagalpur.
20. Zarina Begum W/o Md. Motibur Rahman, Resident of Sakraili, P.S.- Sakraili, District- Katihar.
21. Raj Kumari W/o Nitesh Kumar Singh, Resident of Village- Pakra, P.S.- Naugachia, District- Bhagalpur.
22. Babita Kumari W/o Milan Kumar, Resident of Village- Pakra, P.S.- Naugachia, District- Bhagalpur.
23. Sunita Kumari W/o Balkeshwar Singh, Resident of Village- Pakra, P.S.- Naugachia, District- Bhagalpur.
24. Babita Kumari W/o Sushil Kumar Resident of Village- Bobil, P.S.- Beldor, District- Khagaria.
25. Brajesh Kumar Singh S/o Surendra Prasad Singh, Resident of Village- Pakra, P.S.- Naugachia, District- Bhagalpur.
26. Sushma Sinha W/o Umesh Prasad Singh, Resident of Moh- Tola, P.S.- Naugachia, District- Bhagalpur.
27. Bulbul Kumari W/o Subodh Prasad Sharma, Resident of Village- Sadhura, P.S.- Gopalpur, District- Bhagalpur.
28. Sunita Kumari W/o Manjesh Kumar Rajak, Resident of Singhkund, P.S.- Kharik, District- Bhagalpur.
29. Anita Kumari W/o Sanjay Kumar Mandal, Resident of Village- Raghopur, P.S.- Parbatta, District- Bhagalpur.
30. Munilal Singh S/o Mahanand Prasad, Resident of Village- Raza Babu Mandir Navin Nagar, Punama Pratap Nagar, P.S.- Dholgajja, District- Bhagalpur.
31. Gulshan Ara W/o Md. Shahid Aktar, Resident of Village- Dhrubganj, P.S.- Kharik, District- Bhagalpur.
32. Luxmi Kumari W/o Rajeev Kumar Paswan, Resident of Village- Jhandapur, P.S.- Bihpur, District- Bhagalpur.
33. Pooja Kumari W/o Bhibhakar Bharti, Resident of Village- Naugachia, Ward No.17, P.S.- Naugachia, District- Bhagalpur.
34. Bibi Sanower Khatun W/o Md. Shahid Karim, Resident of Village- Ujani, P.S.- Naugachia, District- Bhagalpur.
35. Yogesh Kumar Yogi S/o Late Nageshwar Harizan, Resident of Village- Bhawanipur Naya Tola, P.S.- Rangra Chowk, District- Bhagalpur.
36. Ruhi Khatoon D/o Md. Kalimuddin, Resident of Village- Kalighat Sarai,



P.S.- Tatarpur, District- Bhagalpur.

37. Rabindra Kumar Roy S/o Sukdeo Roy Resident of Village Pakra, P.S.- Naugachia, District- Bhagalpur.
38. Alpana Kumari W/o Dipak Roy, Resident of Village- Pakra, P.S.- Naugachia, District- Bhagalpur.

... ... Respondents

Appearance :

For the Appellant/s	:	Mrs. Vinita Singh, Advocate
	:	Mr. Vivek Anand Amritesh (A.C. To S.C.28)
For the Respondent/s	:	Mr. Mukesh Kumar No.1, Advocate
	:	Mr. Shashwat, Advocate
	:	Mr. Sachina, Advocate
	:	Mr. Akash Keshav, Advocate
	:	Ms. Shuchi Bharti, Advocate
	:	Mr. Sunil Kumar Singh

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

8 03-04-2025

Re: I.A. No. 1 of 2021

Heard I.A. No. 1 of 2021, there is a delay of about 148 days in filing L.P.A. No. 456 of 2021. For the reasons stated in application read with the affidavit, delay of about 148 days in filing L.P.A. No. 456 of 2021 stands condoned.

2. Accordingly, I.A. No. 1 of 2021 stands allowed.

3. With the consent of the respective counsels for the parties, LPA is taken up for final disposal. The appellants have assailed the order dated 01.02.2021 passed in CWJC No. 7938 of 2020. The learned Single Judge proceeded to pass order in the light of earlier order dated 09.08.2019 passed in CWJC No. 16165 of 2019 (*Kishor Kumar and Others v. The State of*



Bihar and Others). It is necessary to reproduce portion of the order passed in ***Kishor Kumar and Others*** (supra) case and it reads as under:-

"If there is no dispute that the petitioners were sent for training in academic sessions 2013-15 and the course was completed in May, 2017, there is no reason to deny the benefit of trained scale to these petitioners with effect from May, 2017 when the course was completed as the petitioners have completed their training but for the reason best known to the respondents the examination was not held in time and the result was published belatedly along with the junior batch.

Considering the aforesaid, the writ petition is disposed of with a direction to the Director, Primary Education to consider the case of the petitioners and grant the benefit from the date of completion of training to the petitioners as the lapses on the part of the respondents cannot be a ground to deny the benefit of trained pay scale. It is now well settled that one cannot take advantage of his own wrong in defeating the genuine claim. Chief Justice Chhagla of Bombay High Court in the case of All India Groundnut Syndicate Ltd. Vs. Commissioner of Income Tax, Bombay City: AIR 1954 Bom. 232 has occasion to settle the principle on the similar line there is judgment of the Apex Court in the case of State of Maharashtra Vs. Jagannath Achyut Karandikar: AIR 1989 SC 1133. The respondents have to take decision



granting benefit of trained scale to the petitioners with effect from the date of completion of their training i.e. May, 2017. Necessary decision in this regard with all consequential monetary benefits must be taken by the Director; Secondary Education within a period of sixty days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of."

4. The appellants have proceeded to implement the order passed in ***Kishor Kumar and Others*** (*supra*) vide order dated 22.06.2020 and it reads as under:-

“शिक्षा विभाग, बिहार

(प्राथमिक शिक्षा निदेशालय)

आदेश

संचिका संख्या-7/मु0 1-46/2020/ पटना दिनांक यह आदेश माननीय उच्च न्यायालय पटना द्वारा CWJC No.16165/2019 (किशोर कुमार एवं अन्य बनाम राज्य सरकार एवं अन्य) में दिनांक 09.08. 2019 को पारित आदेश के अनुपालन में निर्गत किया जा रहा है।

2. उक्त वर्णित वाद में माननीय उच्च न्यायालय पटना द्वारा पारित आदेश का कार्यकारी अंश निम्नवत हैं:-

“ The respondents have to take decision granting benefit of trained scale to the petitioners with effect from the date of completion of their training i.e May, 2017. Necessary decision in this regard with all consequential monetary benefits must be taken by the Director, Secondary Education within a period of sixty days from the date of receipt/production of a copy of this order.”

3. CWJC No.16165/2019 (किशोर कुमार एवं अन्य बनाम राज्य



सरकार एवं अन्य) में दिनांक 09.08.2019 को पारित न्यायादेश के आलोक में CWJC No. 25063/2019 (रंजीत कुमार एवं अन्य बनाम राज्य सरकार एवं अन्य) CWJC No.3990/2020 (रौशन कुमार एवं अन्य बनाम राज्य सरकार एवं अन्य) CWJC No.3748/2020 (रेणु कुमारी एवं अन्य बनाम राज्य सरकार एवं अन्य) तथा CWJC No.23485/2019 (संतोष कुमार एवं अन्य बनाम राज्य सरकार एवं अन्य) में भी माननीय उच्च न्यायालय, पटना द्वारा समान रूप से निष्पादित करने का आदेश पारित किया गया है।

4. CWJC No.16165/2019 (किशोर कुमार एवं अन्य बनाम राज्य सरकार एवं अन्य) में माननीय न्यायालय द्वारा पारित न्यायादेश के अनुसार वादी को उनके प्रशिक्षण पूर्ण करने की तिथि से प्रशिक्षित वेतनमान का लाभ देने का निर्णय निदेशक, माध्यमिक शिक्षा द्वारा लिया जाना है।

वस्तुतः वादीगण का मामला प्राथमिक शिक्षा निदेशालय से संबंधित है। साथ ही, इस वाद से संबंधित प्रतिवादी संख्या-2 निदेशक, प्राथमिक शिक्षा हैं, प्रतिवादी की सूची में निदेशक, माध्यमिक शिक्षा का नाम सम्मिलित नहीं है। इस प्रकार माननीय न्यायालय के आदेश में निदेशक, प्राथमिक शिक्षा के स्थान पर निदेशक माध्यमिक शिक्षा का अंकण टंकणीय त्रुटि के कारण हो गया प्रतीत होता है इस पृष्ठभूमि में निदेशक प्राथमिक शिक्षा द्वारा माननीय न्यायालय के आदेश के अनुपालनार्थ संदर्भित मामले में निर्णय लिया जा रहा है।

5. उक्त वाद से संबंधित वादीगण का नियोजन बिहार पंचायत प्रारंभिक शिक्षक नियोजन एवं सेवाशर्त नियमावली 2012 के तहत अप्रशिक्षित शिक्षक के पद पर संबंधित नियोजन इकाई द्वारा किया गया है एवं वादीगण को सेवाकालीन प्रशिक्षण की सुविधा विभाग द्वारा उपलब्ध कराया गया।

निदेशक, राज्य शिक्षा शोध एवं प्रशिक्षण परिषद् पटना के पत्रांक 323 दिनांक- 06.03.2020 द्वारा यह अवगत कराया गया है कि शैक्षणिक सत्र 2013-15 के साथ साथ शैक्षणिक सत्र 2016-18 एवं 2017-18 के अप्रशिक्षित शिक्षकों को D.El.Ed (दूरस्थ शिक्षा) की प्रशिक्षण पूर्णता की तिथि दिनांक 31.03.2019 है।

6. बिहार पंचायत प्रारंभिक शिक्षक (नियोजन एवं सेवाशर्त) नियमावली 2012 के अनुसार प्रशिक्षित एवं अप्रशिक्षित शिक्षकों का वेतनमान अलग-अलग है। नियमावली के अनुसार निर्धारित प्रशिक्षण अर्हता प्राप्त शिक्षकों को ही



प्रशिक्षित वेतनमान देय है।

7. उक्त तथ्यों को ध्यान में रखकर माननीय न्यायालय के उक्त आदेश के अनुपालन में सत्र 2013-15 में नामांकित अप्रशिक्षित शिक्षक जिनका प्रशिक्षणचर्या मई 2017 में पूर्ण हो गया और मार्च 2019 में प्रकाशित परीक्षाफल अन्तर्गत उत्तीर्ण हुए को प्रशिक्षणचर्या पूर्ण करने की तिथि से प्रशिक्षित शिक्षक का वेतनमान वैचारिक रूप से स्वीकृत करते हुए वित्तीय लाभ परीक्षाफल प्रकाशन की तिथि से देने का निर्णय लिया जाता है।

8. इस आदेश की प्रति सभी अधीनस्थ नियोजन इकाई एवं जिला शिक्षा पदाधिकारी कार्यालय को उपलब्ध कराया जाय ताकि उनके स्तर से अनुवर्ती कार्रवाई ससमय पूर्ण की जा सके।

उक्त अभिमत के साथ इस मामले को निस्तारित किया जाता है।

(डॉ० रणजीत कुमार सिंह)

निदेशक, प्राथमिक शिक्षा

ज्ञापांक 7 /मु0 1-46/2020 547 पटना दिनांक 22.06.2020

प्रतिलिपि— सभी क्षेत्रीय शिक्षा उप निदेशक, बिहार/सभी जिला शिक्षा पदाधिकारी बिहार/सभी जिला कार्यक्रम पदाधिकारी (स्थापना), बिहार/संबंधित नियोजन इकाई के सदस्य सचिव एवं संबंधित वादीगण को सूचनाथ, एवं आवश्यक कार्यार्थ प्रेषित।

ह0 अस्पष्ट

22.6.2020

5. It is to be noted that appellants-State have not preferred LPA in ***Kishor Kumar and Others*** (*supra*) case. On the other hand, they have not taken note of specific words in the ***Kishor Kumar and Others*** (*supra*) to the following extent:-

“The respondents have to take decision granting benefit of trained scale to the petitioners with effect from the date of completion of their training i.e., May, 2017. Necessary decision in this regard with all consequential monetary benefits must be taken by the Director, Secondary Education within a period of sixty days from date of receipt/production



of a copy of this order”.

Underline Supplied

6. In this backdrop, appellants cannot take decision of notional benefits when the order is very specific to the extent that necessary decision in this regard with all consequential monetary benefits must be taken by the Director. The same decision has been passed in number of cases including the present case. The appellants have taken their own time to publish the result with reference to completion of training course in the month of May, 2017. For no fault on the part of the respondents, denial of certain service and monetary benefits on behalf of the appellants would be arbitrary, therefore, the appellants have not made out a case so as to interfere with the impugned order of the learned Single dated 01.02.2021 passed in passed in CWJC No. 7938 of 2020.

7. Accordingly, LPA No. 456 of 2021 stands dismissed. Pending I.A., if any, stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

GK Sinha/-

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