

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2464 of 2015

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1. Indu Kant Mishra Son of Late Umakant Mishra resident of Village +P.O- Ramai, P.S- Farbishganj, District- Araria, presently working as Headmaster of Ambika Sanskrit Prathmik-Sah- Madhya Vidyalaya, Ramai, Chairman of Araria District Sanskrit School Teacher's Association.
 2. Prakash Nath Jha Son of Mahendra Nath Jha, resident of Village-Baradbatta, P.O- Urlaha, P.S- Palasi, District- Araria, presently working as Headmaster of Bhawani Sanskrit Prathmik-Sah- Madhya Vidyalaya, Baradbatta, District - Araria, Secretary of Araria District Sanskrit School Teacher Association.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Patna,
2. Secretary, Department of Human Resources, Government of Bihar, Patna. null null
3. The Principal Secretary, Education Department, Government of Bihar, Patna. null null
4. Department of Finance, Government of Bihar-through its Principal Secretary, Patna. null null
5. The Special Director, Secondary Education, (In-charge -Sanskrit), Education Department, Government of Bihar, New Secretariat, Patna.
6. Bihar Sanskrit Shiksha Board through its Secretary, Near Rajapur Pool, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2663 of 2015

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1. Baidyanath Jha Son of Late Nirash Jha resident of village - Baurha, P.O. + P.S. Laukaha, District - Madhubani, Secretary of Non - Government Recognized and Aided Sanskrit Primary, Middle and High Schools Teachers' Association of the District of Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Patna
2. Secretary, Department of Human Resources, Government of Bihar, Patna
3. The Principal Secretary, Education Department, Government of Bihar, Patna
4. Department of Finance, Government of Bihar through its Principal Secretary, Patna
5. The Special Director, Secondary Education (In - Charge - Sanskrit), Education Department, Government of Bihar, Patna
6. Bihar Sanskrit Siksha Board through in Secretary, Near Rajapur Pul, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3444 of 2014

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1. Ashok Kumar Singh Son Of Late Shiv Nandan Prasad Singh Resident Of Village Vishnupur, P.O. Pakaria, P.S. Shambhuganj, District Banka
2. Shiv Kumar Singh Son Of Late Shreenath Singh Resident Of Village Sukhpura, P.O. Miranpur, P.S. Nonhara, District Ghazipur (Ptta Pradesh)
3. Kailash Chandra Jha Son Of Sri Deep Narayan Jha Resident Of Village Mahmatpur, P.O. + P.S. Amarpur, District Banka
4. Dighambar Kumar Singh Son Of Late Basuki Prasad Singh Resident Of Village

And P.O. Pakaria, P.S. Shambhuganj, District Banka
5. Naresh Prasad Panjiyara Son Of Sri Ramji Prasad Panjiyara Resident Of Village
Galampur, P.O. Baidachak, P.S. Amarpur, District Banka

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Chief Secretary, Patna
2. Secretary, Department Of Human Resources, Government Of Bihar, Patna
3. Principal Secretary, Education Department, Government Of Bihar, Patna
4. Department Of Finance, Government Of Bihar Through Its Principal Secretary,
Patna
5. Bihar Sanskrit Siksha Board-Through Its Secretary, Near Rajapur Pool, Patna
.... Respondent/s

with

Civil Writ Jurisdiction Case No. 5109 of 2015

1. Narayan Jha, S/o Late Rajeshwar Jha, resident of Village Sugauna, P.S.-
Rajnagar, District-Madhubani.
2. Jai Chandra Jha, S/o Late Mahanth Jha, resident of Village-Karmauli, P.S.-
Khajauli, District-Madhubani.
3. Karpur Thakur S/o Bilat Jhakur, resident of village- Andhra, P.S.- AndhraThari,
District- Madhubani.
4. Shobha Kant Chaudhary S/o Late Kishori Chaudhary, resident of village-
Chaura, Mahrail, P.S.- Jhanjharpur, District-Madhubani.
5. Satya Narayan Chaudhary S/o Late Jagdhar Chaudhary resident of vill.- Gaur
Andhra P.S.- Rudrapur, District- Madhubani.
6. Ram Chandra Sahu S/o Late Upendra Sah, resident of Village-Singhyan, P.S.-
Andhra Thari, Dist- Madhubani.
7. Dev Kumar Singh S/o Hari Ballabh Singh, resident of Village-Belha, P.S.-
Phulparas, District- Madhubani.
8. Harishchandra Jha, S/o Bishnu Kant Jha, resident of Village-Sijaulia, P.S.-
Phulparas, Dist-Madhubani.
9. Chandeshwar Choubey S/o Late Hari Narayan Choubey, resident of Village-
Sugauna, P.S.- Rajnagar, Distt.- Madhubani.
10. Deo Chandra Mishra S/o Late Suryamani Mishra, resident of Village-
Satighara, P.S.- Babubarhi, District-Madhubani.
11. Gauri Shankar Jha S/o Late Ramanand Jha, resident of village-Satghare, P.S.-
Babubarhi, Dist- Madhubani.
12. Satish Chandra Jha S/o Dayanand Jha, resident of Village-Madhura, P.S.-
Lakhnaur, District-Madhubani.
13. Rameshwar Mishra S/o Badhi Mishra, resident of village- Mansapur, P.S.-
Laukhi, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education,
Govt. of Bihar, Patna.
2. The Principal Secretary, the Department of Education, Govt. of Bihar, Patna.
3. The Principal Secretary, the Department of Finance, Govt. of Bihar, Patna.
4. The Special Director, Secondary Education (Incharge Sanskrit) Department of
Education, Govt. of Bihar, Patna.
5. The Secretary, Bihar Sanskrit Shiksha Board, Patna.
6. The Chairman, Bihar Sanskrit Shiksha Board, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 3022 of 2015

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1. Shailendra Prasad Sinha S/o Late Ram Sundar Prasad Sinha R/o Village / Mohalla Shamsuddinpur, P.O. + P.S. Revilganj, District Saran.
2. Sanjeev Kumar Singh S/o Sh. Krishna Kumar Singh R/o Village / Mohalla Nayaka Lohar Tola, P.O. + P.S. Revilganj, District Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna.
2. The Special Director, Secondary Education Sanskrit, Govt. of Bihar, Patna.
3. The Joint Secretary, Secondary Education, Govt. of Bihar, Patna.
4. The Bihar Sanskrit Siksha Board through its Secretary, having its office at Boring Canal Road, East, Patna.
5. The Chairman, Bihar Sanskrit Siksha Board, Boring Canal Road, East, Patna.
6. The Secretary, Bihar Sanskrit Siksha Board, Boring Canal Road, East, Patna.

.... Respondent/s

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Appearance :

(In CWJC No. 2464 of 2015)

For the Petitioner/s : Mr. Purushottam Jha
For the Respondent/s : Mr. Manish Kumar
For the BSSB: Mr. S. S. Sundram
Mr. Shashank Shekhar Jha

(In CWJC No. 2663 of 2015)

For the Petitioner/s : Mr. Purushottam Jha
For the Respondent/s : Mr. Ravi Verma
For the BSSB: Mr. S. S. Sundram
Mr. Shashank Shekhar Jha

(In CWJC No. 3444 of 2014)

For the Petitioner/s : Mr. RAJEEV RANJAN PRASAD
For the Respondent/s : Mr. Sanjay Kumar Ojha
For the BSSB: Mr. S. S. Sundram
Mr. Shashank Shekhar Jha

(In CWJC No. 5109 of 2015)

For the Petitioner/s : Mr. Hemant Kumar Jha
For the Respondent/s : Mr. AJAY BIHARI SINHA
For the BSSB: Mr. S. S. Sundram
Mr. Shashank Shekhar Jha

(In CWJC No. 3022 of 2015)

For the Petitioner/s : Mr. Alok Ranjan
For the Respondent/s : Mr. ANSHUMAN SINGH- GP24
Mr. Rajeev Shekhar
For the BSSB: Mr. S. S. Sundram
Mr. Shashank Shekhar Jha

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 12-08-2015

12.08.2015

A batch of writ applications have been filed by

the petitioners, seeking parity of pay and allowances to

the teachers and non-teaching staffs of the non-government recognized and aided Sanskrit Schools at the primary, middle and secondary standards, which is not being done despite a resolution of the department of HRD, Government of Bihar, issued as far back as on 20th of February, 1991, contained in Annexure-1.

In addition to the so called resolution of 1991, the petitioners assert that there are some judicial directions as well to consider the claim of these teachers for grant of benefits like any other government schools or atleast what has been granted to the teachers of aided minority schools.

The petitioners do not seem to be happy with the resolution, dated 31st of August, 2013, duly published in the Bihar Gazette on 4th of September, 2013, wherein the revision of salary etc. has been notified which shall be available to the aided institutions viz. Madarsas or Sanskrit Schools, duly recognized by the State of Bihar. The notification itself indicates the background under which the revision was required to be made especially since there was a long time gap since the last revision in relations to such teachers and employees working in the aided schools.

If the assertion and demand which has been



made by these petitioners are examined minutely then the Court can come to only one conclusion that if such benefit is extended to these petitioners for all practical purposes they will derive the same kind of perks and privileges which is available to a government servant or atleast teachers of a government school. It will make no difference even if they are not government servants and employees of an aided institution.

It cannot be lost sight of that these institutions were set up by private enterprise. The management and functioning of these institutions are in the hands of private managing committee and no doubt with the object of giving encouragement to Sanskrit language as such certain policy decisions had been taken in the past. But those policy decisions are amenable to change and are required to be revisited looking at the status of such persons. Their right is limited to financial aid and assistance to the extent the State can bear the burden from the public ex-chequer, from time to time.

These institutions are only entitled for receiving certain aid and assistance from the government. They are not required to be funded and financed in the same manner as a government school is required to be done. Their management is very much in



the hands of private individuals. The government exercises no control on their affairs except extending some financial help in running of the institution to the best of the resources available with the State of Bihar.

The fallacy in the various submissions of the counsels for the petitioners is that they have lost sight of the basic fact that they are not government employees, but employees of a private managing committee, which may have earned recognition of limited kind from the State of Bihar for providing financial assistance. In fact if the contention of the counsel for the petitioners is accepted by the Court, then a anomalous situation will arise where despite the petitioners being employees of a privately managed Sanskrit school, they will be brought at par with a government servant which is not the object of providing financial aid to such institutions.

Counsels for the petitioners harp on some decisions. One of which is the case of ***Bihar Minorities / Aided Primary Teachers Association Versus State of Bihar, reported in 2011 (4) PLJR 931.***

The ratio of the case cannot be applied mutadis mutandis to the demand and the relief made by these petitioners, because they do not have constitutional guarantee which certain minority

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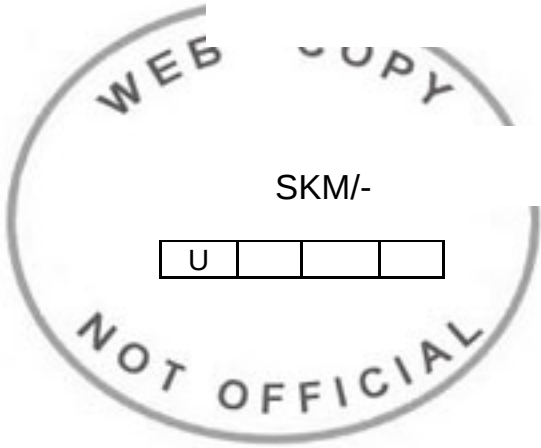
institutions have been conferred under the Constitution of India. Therefore, the parity which they are looking for on the basis of the observation made in the decision rendered in Bihar Minorities / Aided Primary Teachers Association (supra), cannot be applied across the board.

The State of Bihar after due consideration has issued a notification revising the pay and the privileges which these aided institutions can derive in terms of the resolution dated 31.08.2013. The magnanimity shown by the State in this regard should be more than enough and should be accepted with grace by these petitioners. A charity cannot become a matter of right. The distinction between a government servant and employees of non-government aided schools will remain and shall remain and they cannot be equated and brought at par with government servants.

The Court, therefore, comes to a considered opinion that the petitioners have no legal or statutory right to demand parity with State government employees and demand perks and privileges at par with government employees. The aid and assistance which is extended by the State cannot be expanded to include benefits of recommendations of pay commissions, pensionary benefits etc. etc.



Writ applications have no merit, they are dismissed.



(Ajay Kumar Tripathi, J.)