

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8338 of 2007

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1. Kripa Nand Mishra S/O Late Mahidhar Mishra, resident of village- Vargaon, P.S. Sonbarsa, District- Saharsa
 2. Prabhakar Jha, son of Late Umesh Chandra Jha, resident of village- Golhatti, P.S. Baunsi, District- Banka
 3. Lakshman Prasad, son of Late Beni Mahto, resident of village- Gawaspur, P.S. Islampur, P.O. Kunshelpur, District- Nalanda
 4. Muktinath Jha, son of Late Damodar Jha, resident of Mohalla- Budhan Jha Tola, Via, Pandaul, P.O. Pandaul, District- Madhubani
 5. Suresh Chandra Jha, son of Late Bashdeo Jha, resident of village- Hanumannagar, P.O. Bhaur, Via Lohet, District- Madhubani
 6. Rajendra Jha, son of Late Bal Krishna Jha, resident of village- Adharpur, P.S. Ghanshyampur, District- Darbhanga
 7. Deo Narayan Jha, son of Late Ramvilas Jha, resident of village- Karariya, P.S. Shyampur Bhataha, District- Sheohar
 8. Ramanuj Sharma, son of Late Sidheshwar Sharma, resident of village- Sharma, P.S. Ghoshi, District- Jehanabad
 9. Chandra Kishore Jha, son of Late Umakant Jha, resident of village- Padumkar, P.O. Padumkar, District- East Champaran
 10. Damodar Pandey, son of Late Jagdish Pandey, resident of village- Basti, P.S. Harnaut, District- Nalanda

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, old Secretariat, Patna
2. The Secretary, Cabinet Secretariat, Bihar, Patna
3. The Finance Commissioner, Old Secretariat, Bihar, Patna
4. The Secretary, Personnel and Administrative Reforms Department, Bihar, Patna
5. The Commissioner-cum- Secretary, Human Resources Development Department, Govt. of Bihar, Vikash Bhawan, Patna
6. The Director, Secondary Education, Govt. of Bihar, Vikash Bhawan, Patna
7. The Director Administration, Govt. of Bihar, Vikash Bhawan, Patna
8. The Assistant Director of Education (Sanskrit), Govt. of Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Md.Nadim Seraj

For the Respondent/s : Mr. AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

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5 18-02-2015

Heard learned counsel for petitioners and learned AC
to AAG-6.

“The petitioners, ten in number, have approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India with a prayer to direct the Respondents to grant following reliefs:

“(i) For appropriate order, declaration(a) that the petitioners are entitled to absorption in the Bihar Education Service Class-II with effect from 1.01.77 on account of merger of Subordinate Education Service Cadre (Teaching Branch) (b) for a further declaration that the petitioners are entitled to all the consequential benefit like their counter part in the teaching branch of the Bihar Subordinate Education Service now converted in Bihar Education Service Class-II (c) for further declaration that the decision of the Director, Secondary Education dated 9.08.06 is inapplicable to the petitioners as these petitioners have not submitted any undertaking and they were not drawing any higher scale in the scale of Rs.6500-10500/-

(i) For a follow up direction to the respondents to immediately issue resolution and notification regarding conversion of the cadre of the petitioners from Subordinate Education Service to Bihar Education Service Class-II with effect from 1.01.77

(iii) For any other relief or consequential relief for which the petitioners are found entitled to in the

facts and circumstances of this case.”

Learned counsel for the petitioners has placed reliance on Judgment of a Single Bench of this Court passed in C.W.J.C.No.14402 of 2006. He submits that a Single Bench of this Court had allowed the similar relief, which has been sought for by the petitioners in the present writ petition.

In this case, earlier a counter affidavit was filed on behalf of Respondent/State and in paragraph-16 of the counter affidavit, a specific statement was made that issue in question is still subjudice (pending) before a Division Bench in L.P.A. No.1620 of 2013. Learned counsel for the State submits that earlier against the order of the writ court i.e. C.W.J.C.No.14402 of 2006, on which reliance has been placed by the petitioners, the State had preferred an appeal vide L.P.A. No.1620 of 2013.

In this case by way of filing 2nd supplementary affidavit, petitioners have brought on record a Judgment dated 20.01.2015 passed by the Division Bench of this Court in L.P.A. No.1620 of 2013. By Judgment dated 20.01.2015, the Division Bench has rejected the appeal preferred by the State and approved the order of the Single Bench.

In view of Judgment of the Single Bench, which has been approved by the Division Bench, the present writ petition

deserves to be allowed in the same terms.

Accordingly, the writ petition stands allowed in terms of order dated 18.03.2013 passed in C.W.J.C.No.14402 of 2006 as well as Judgment dated 20.01.2015 of the L.P.A. court passed in L.P.A. No.1620 of 2013.

(Rakesh Kumar, J)

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