

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21966 of 2014

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1. Sanjay Kumar Son of Sri Sita Ram Thakur Bihari, Resident of Village - Mojampur, P.O. - Manjhgain, P.S. - Sangrampur, District - Munger, presently working as Panchayat Teacher, Navsrijit Primary School, Katoria Urdu, Anchal - amarpur (South), District - Banka.
 2. Pramila Kumari Daughter of Sri Rajendra Prasad Singh and Wife of Sri Dayanand Kumar, Resident of Village - Mohammadpur, P.O> - Bhagalpur, P.S. - Tarapur, District - Munger, presently working as Panchayat Teacher, Navsrijit Primary School, Janakpur (Mandal Tola), Anchal - Amarpur (South), District - Banka.
 3. Parmanand Sharma Son of Late Gobind Sharma, Resident of Village - Mojampur, P.O. - Manjhgain, P.S. - Sangrampur, District - Munger, presently working as Panchayat Teacher, Navsrijit Primary School, Dhanai, Anchal - Amarpur (South), District - Banka.
 4. Bhavesh Kumar Son of Sri Karoo Lal Bhagat, Resident of Village - Karasani, P.O. - Kathaon, P.S. - Rajaun, District - Banka, presently working as Panchayat Teacher, Navsrijit Primary School, Kishanpur, Anchal - Amarpur (South) District - Banka.

.... Petitioner/s

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, Education Department, Government of Bihar, Patna.
4. The District Teacher Employment Appellate Authority, Banka through The Member, District - Banka.
5. The District Education Officer, Banka, District - Banka.
6. The District Program Officer (Establishment), Banka, District - Banka.
7. The Block Education Officer, Amarpur, District - Banka.
8. The Mukhiya, Gram Panchayat Raj, Shobhanpur, Block - Amarpur, District - Banka.
9. The Panchayat Secretary, Gram Panchayat Raj, Shobhanpur, Block - Amarpur, District - Banka.
10. Sima Kumari Gupta daughter of not known to the petitioners,
11. Kumari Nishu, daughter of not known to the petitioners,
12. Rambha Kumari daughter of not known to the petitioners,
13. Manoj Kumar son of not known to the petitioner
14. Pappu Kumar son of not known to the petitioner
15. Arvind Kumar son of not known to the petitioner
16. Jai Prakash Singh son of not known to the petitioner
17. Vinay Kumar son of not known to the petitioner
18. Raj Kumar Panjiyara, son of not known to the petitioner Respondent nos. 10 to 18 through the Members of District Teacher Appointment Appellate Authority, Banka, P.O. + P.S. and District - Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Mangallam
For the Respondent/s : Mr. Dhurjati Kr Prasad

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT

Date: 23-01-2015

Heard learned counsel for the parties.

Counsel for the State has raised a preliminary objection with regard to the prayer and relief, which the petitioners want through this writ application. His objection is that a 2009 order passed by the District Teachers Employment Appellate Tribunal is now sought to be challenged only after the tribunal took a very deemed view of the matter in the year 2014 that the previous order has not been implemented by the Panchayat.

There is no dispute that the tribunal in relation to the above issue had made adjudication by virtue of the order, contained in Annexure-9. Some of those affected persons did approach the Court and the Court did pass certain Orders in their favour, but since these petitioners were not a party in the said writ proceeding, obviously, the order of the tribunal, contained in Annexure-9, operated against them.

When grievance was raised before the tribunal of the non-implementation of the said order, Annexure-13 came to be passed and only when the petitioners started feeling the heat that the 2009 order is being challenged by rushing to the High Court for

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seeking quashing of Annexure-9 and Annexure-13. It is in this background that the objection of the State counsel is relevant.

It is also important to note here that very effectively the Panchayat had frustrated a quasi judicial decision rendered by the tribunal for five long years and only when an adverse view has been taken by the tribunal now that these petitioners have approached the Court.

State has placed reliance on a Supreme Court's decision rendered in the case of **S. S. Balu Versus State of Kerala reported in 2009 (2) SCC 479**. Paragraph 18 of the said decision is reproduced hereinbelow, since the same crystallizes the ratio, which applies to the case of the present case.

“18. It is also well settled principle of law that "delay defeats equity". Government Order was issued on 15.1.2002. Appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and State of Kerala preferred an appeal thereagainst, they impleaded themselves as party respondents. It is now a trite law that where the writ

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petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment. It is, thus, not possible for us to issue any direction to the State of Kerala or the Commission to appoint the appellants at this stage.

In New Delhi Municipal Council v. Pan Singh and Ors. (2007) 9 SCC 278, this Court held:

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the

writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction."

If this be so, Annexure-9 is not required to be interfered with and Annexure-13 is only a follow up action for enforcement and implementation of Annexure-9. Therefore, there is no illegality, which is required to be corrected or interfered with in the present writ application.

In view of the aforesaid facts and circumstances, writ application stands dismissed.

Before parting a desperate effort was made by counsel representing the petitioners to take advantage of Annexure-11, the order passed by the District Superintendent Education, Banka, dated, 17.05.2010, wherein a direction was issued to the Panchayat, not to implement the order of tribunal in view of the interim order passed by the High Court.

The interim order passed by the High Court would relate to the persons, who had approached the

High Court. The same cannot be expanded and extended to cover each and every person, who had not even bothered to challenge or assail the order of the tribunal. A blanket protection, therefore, cannot be granted or could not have been granted. Annexure-11 ought to be read to mean only for such persons, who were working on the basis of the interim order passed in the writ application of those petitioners and them alone.

(Ajay Kumar Tripathi, J.)

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