

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3956 of 2015**

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1. Gautam Kumar son of Late Motilal Choudhary, Resident of Village/Mohalla-Rambagh, P.O. Purnea, P.S. Sadar, District- Purnea.
  2. Anjani Kumari wife of Late Vijay Kumar, Resident of Village- Khutia, P.O + P.S. Mansi, District- Khagaria.
  3. Md. Minhaj Akhtar son of Late Md. Shamim Akhtar Seraji, Resident of Village-Islamagar(Maghopada) , P.O. + P.S. K. Hat, District- Purnea.
  4. Vikash Kumar son of Late Jayanandan Prasad Yadav, Resident of Mohalla-Purnea Court Station, P.O. Purnea, P.S. K. Hat, District- Purnea.
  5. Priyam Kumar Lakra son of late Meera Devi, Resident of Mohalla- Railway Court Station, P.O. Purnea, P.S. K. Hat, District - Purnea..
  6. Ramdeo Raman son of Late Baidyanath Sah, Resident of village- Ranipatra, District- Purnea.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Regional Director of Education, Purnea.
3. The District Programme Officer (Establishment), Purnea.
4. The Block Development Officer-cum-executive Officer, East Purnea, Purnea.
5. The Executive Officer, Municipal Corporation, Purnea.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rajendra Pd. Singh, Sr. Advocate  
Mr. Mukesh Kumar Singh

For the Respondent/s : None

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 02-04-2015**

A K Tripathi, J.

Heard learned senior counsel for the petitioners. None on behalf of the State.

2. Writ application has been filed by the petitioners for a direction seeking parity with one Vishwanath Pandey. The case is reported in (2013) 10 SCC 545 i.e. Vishwanath Pandey vs. State of Bihar and others. In above case Hon`ble Supreme Court found the said petitioner to be eligible for begetting regular pay-scale after being appointed under the compassionate head instead of

fixed pay-scale as a teacher.

3. These petitioners also claim the same benefit. However, on reading of Annexure-7, which is the resolution passed by the Education Department, Government of Bihar; it clearly indicates that such a benefit is extended to Vishwanath Pandey as an exception but not as a rule. The case of Vishwanath Pandey is not required to be used as a precedent for such claim.

4. A reading of the decision rendered by the Hon`ble Apex Court itself indicates that in the case of Vishwanath Pandey the benefit accrued on the basis of direction issued by the High Court earlier. Para 6, 7 and 8 of the decision are significant in this regard.

5. In view of the observation of the Apex Court keeping the facts of Vishwanath Pandey in mind, the State Government was correct in issuing the notification, contained in Annexure-7. The case of Vishwanath Pandey cannot be equated with the case of others. The entitlement of a teacher is governed by a set of rules and since the relevant rule in question does not talk about a regular pay-scale but a fixed pay-scale, which is Bihar Primary Teacher (Appointment and Service Conditions) Rules, 2006, no employee can beget an advantage or benefit of service over and above the rule, which governs his service condition.

6. Writ application has no merit. It is dismissed.

**(Ajay Kumar Tripathi, J)**

R.K.Pathak/-

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