

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12390 of 2011

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1. Md. Nurain, S/O Late Md. Alam R/O Vill.- Shahpur Baghauni, P.S.- Tajpur, Distt.- Samastipur
 2. Md. Ijtaba Saifi S/O Late Md. Zaheer R/O Vill.- Rajwa, P.S.- Bangra, Distt.- Samastipur
 3. Birendra Prasad Akela S/O Late Nand Kishore Prasad R/O Vill.- Sirsia, P.S.- Tajpur, Distt.- Samastipur
 4. Haleema Ashraf D/O Md. Muslim R/O Vill.- Shahpur Baghauni, P.S.- Tajpur, Distt.- Samastipur
 5. Farooque S/O Late Umer Lais R/O Vill.- Bherokhra, P.S.- Tajpur, Distt.- Samastipur
 6. Iffat Islam D/O Md. Islam, W/O Md. Imtiyaz R/O Vill.- Chandchaur, Mathurapur, P.S.- Ujiarpur, Distt.- Samastipur
 7. Md. Sharfaraz Alam S/O Md. Moiz R/O Vill.- Salempur, Ward No. 11, P.S.- Barh, Distt.- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Department, Bihar, Patna
3. The Secretary, Middle and Primary Education, Bihar, Patna
4. The Director, Middle Primary Education, Bihar, Patna
5. The District Magistrate, Samastipur
6. The Regional Deputy Director of Education, Darbhanga
7. The District Programme Officer, Samastipur
8. The District Superintendent Of Education, Samastipur
9. The District Education Officer, Samastipur
10. The Block Development Officer, Tajpur and Ujiarpur Block, Samastipur
11. The Block Education Extension Officer, Tajpur and Ujiarpur Block, Samastipur
12. The Headmaster, Utkramic Middle School, Gangapur Harijan, Tajpur, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Md. Irshad, Advocate.

For the Respondent/s : Mr. Raju Giri, GP-30

Mr. Santosh Kumar Mishra, AC to GP 30

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 21-08-2015

Heard learned counsel for the parties.

2. Having regard to the nature of relief sought in this writ application, which may be better appreciated by reading of

Para 1 of the writ application, relevant portion whereof reads as follows:

*"1.(i) For issuance of a writ in the nature of certiorari or any other appropriate writ order and direction for quashing the order dated 07.03.2011 contained in memo no. 246 BEP issued by the District Superintendent of Education (Respondent no. 8) Samastipur by which order the respondent no. 8 removed the petitioners from their post and without giving the opportunity of hearing to the petitioners and the same is communicated the Block Education Officer.
(ii) For issuance of a writ in the nature of mandamus or any other appropriate writ, order and direction commanding the respondent not to disturb the petitioners from discharging their duties further may allow the petitioner to make attend the school and make their attendance in attendant register."*

this Court must hold that the present writ application was wholly misconceived and ill advised right from the inception. The order dated 07.03.2011 has been passed by the District Superintendent of Education, Samastipur informing the Block Education Officer, Tajpur that a number of employees, having not requisite qualification for the post of Panchayat Teacher, would not be entitled for continuation in service and, therefore, a report should be sent and till that day payment should not be made to them.

3. As against the said order, the petitioners or any other Panchayat Teacher had a remedy before the District Teachers Employment Appellate Authority in terms of Rule 18 of the Bihar Panchayat Primary Teachers (Employment & Service Conditions) Rules, 2006 (hereinafter referred to as 'the 2006 Rules').

4. Let it be noted that under Rule 18 of the 2006 Rules,

there is a clear provision for redressal of the grievance of the Panchayat Teacher of any matter relating to his service conditions. In that view of the matter, the petitioners' writ application, without moving the Tribunal, which is statutory alternative remedy, was ill advised and misconceived.

5. That being so, this writ application is held to be not maintainable and accordingly dismissed.

6. The interim order passed by this Court on 05.08.2011 shall also accordingly stand vacated.

7. The dismissal of this writ application, however, will not come in the way of the petitioner in approaching the Tribunal and if such an appeal is filed, the Tribunal shall entertain the application without non-suited the petitioners on the ground of delay/limitation keeping in view that this writ application has remained pending since 06.09.2011.

(Mihir Kumar Jha, J)

Sujit/-

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