

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10872 of 2010

Ashok Kumar, Son of Late Amulya Chand Das, Assistant teacher, Project Girls High School, Korha, P.S.-Korha, District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.

2. The Director (Secondary Education), Human Resources Development Department, Bihar Secondary Education Office, Budh Marh, Patna-1.

3. The Regional Deputy Director of Education, Purnea Division, Purnea.

4. The District Education Officer, Katihar.

5. The Three-man committee, Human Resources Development, New Secretariat, Patna constituted in view of the Judgment and Order dated 03.01.06 passed in Civil Appeal No. 6626-6675 of 2001 by the Hon'ble Supreme Court through its convener Shree Anup Kumar Sinha.

6. Shree Anup Kumar Sinha, Son of name not known, the Convener, Three Man Committee (the respondent No. 5) Human Resources Development Department, New Secretariat, Patna at present posted as, Secretary, Bihar School Examination Board, Patna-17.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 7133 of 2012

1. Project Balika Uchcha Vidyalaya, Thathopur, P.S.-Baheri, Distt.-Darbhanga through its teacher, Shambhu Kumar Singh, S/o Late Mahendra Prasad Singh, resident of Village+P.O.-Yogiyara, P.S.-Jale, Distt.-Darbhanga.

2. Shambhu Kumar Singh, S/o Late Mahendra Prasad Singh, resident of Village+P.O.-Yogiyara, P.S.-Jale, Distt.-Darbhanga.

3. Amar Nath Singh, S/o Sri Parmeshwar Singh, resident of Village-Dubauli, P.O.-Thathopur, P.S.-Baheri, Distt.-Darbhanga.

4. Md. Minnatillah Rahmani, S/o Md. Shyeed Ansari, resident of Village+P.S.-

Jamalpur, Distt.-Darbhanga.

5. Raj Kumar Singh, S/o Late Ram Lakhan Singh, resident of Village-Thathopur,
P.S.-Baheri, Distt.-Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Principal Secretary, Human Resources Development Department, Bihar, Patna.
 3. Joint Secretary, Human Resources Development Department, Bihar, Patna.
 4. Director, Secondary Education, Human Resources Development Department,
Bihar, Patna.
 5. District Education Officer, Distt.-Darbhanga.
- Respondent/s

with

Civil Writ Jurisdiction Case No. 9178 of 2012

Sabita Rani, Wife of Shri Suresh Prasad Singh, resident of Tamtam Parao Masjid
Gali Fulwarisharif, P.S.-Fulwarisharif, District-Patna, at present Assistant teacher in
Project Nawal Kishor Girls High School Masaurhi, P.S.-Masaurhi, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Government of Bihar, Patna.
 2. The Director, Secondary Education, Human Resources Development
Department, Govt. of Bihar, Patna.
 3. The District Education Officer, Patna.
- Respondent/s

with

Civil Writ Jurisdiction Case No. 13159 of 2013

Maheshwar Prasad Singh, Son of late Rama Mahto, resident of Village-Bara Dih,
P.S.-Barachatti, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources, New Secretariat, Bihar, Patna.
2. The Principal Secretary, Department of Human Resources, New Secretariat, Bihar, Patna.
3. The Director, Secondary Education, Budh Marg, Patna-1.
4. The Regional Deputy Director of Education, Gaya.
5. The District Education Officer, Gaya.
6. The Headmaster, Project Kanya Uchch Vidyalaya, Barachatti, District-Gaya.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 13104 of 2013

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Kriti Kumar, Son of Sri Keshav Prasad, resident of Village-Kawakol, P.O.-Kawakol, P.S.-Kawakol, District-Nawada.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education) Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna.
3. The Deputy Director (Secondary Education), In charge Project Schools, Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna.
4. The District Education Officer, Nawada.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11695 of 2012

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Brajendra Kumar Roy, Son of late Ram Sharan Prasad, resident of Village-Pojhi, P.S.-Marhaura, District-Saran, at present Incharge Headmaster of Sitaram Project Girls High School Pojhi Bhualpur, P.S.-Marhaura, District-Saran (Chapra).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.

2. The Director, Secondary Education, Human Resources Development Department, Govt. of Bihar, Patna.

3. The Regional Deputy Director of Education, Saran Division at Chapra.

4. The District Education Officer, Saran at Chapra.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 3038 of 2011

1. Md. Muslim Hussain, S/o Late Abdul Hafiz, resident of Village & P.O.-Basantpur, P.S.-Basantpur, District-Siwan.

2. Smt. Nirmala Kumari Verma, W/o Srikrishan Kant Kanj, resident of Village & P.O.-Bansohi Bazar, P.S.-Masrakh, District-Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar New Secretariat, Patna.

3. The Director, Secondary Education, Govt. of Bihar, Budh Marg, Patna.

4. The Regional Deputy of Education Saran Division, Chapra.

5. Head Mistress, Yamuna Girls High School Basantpur, P.O & P.S.-Basantpur, District-Siwan.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 4174 of 2011

- Ram Pravesh Mishra, Son of Late Sadanand Mishra, Assistant Teacher, Shiva Projects Girls High School, Khizarsarai, P.S.-Khizarsarai, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources

Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.

- 2. The Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
- 3. The Director (Secondary Education) Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna-1.
- 4. The Regional Deputy of Education, Magadh Division, Gaya.
- 5. The District Education Officer, Gaya.
- 6. Smt. Sumita Devi, Wife of name not known, a junior most teacher of Shiva Project Girls High School, Khizarsarai, P.S.-Khizarsarai, District-Gaya.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 13406 of 2010

Surendra Kumar, Son of Shree Lal Bahadur Prasad, Assistant Teacher, Sardar Mangal Singh Project Girls High School Mainatar, P.S.-Mainatar, District-West Champaran.

.... Petitioner/s

Versus

- 1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
- 2. The Director (Secondary Education) Human Resources Development Department, Bihar Secondary Education Officer, Budh Marg, Patna.
- 3. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
- 4. The District Education Officer, West Champaran.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 14635 of 2011

Brij Nandan Rai, Son of late Achhelal Rai, resident of Village-Parsauna, P.S.-Parsa, District-Saran, at present Incharge Headmaster, Jhuna Devi Project Girls High School Parsauna, P.S.-Parsa, District-Saran (Chapra).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Human Resources Development Department, Govt. of Bihar, Patna.
3. The District Education Officer, Saran at Chapra.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 15078 of 2010

Birendra Pandey, Son of Sri Kapildeo Pandey, r/o – Village Akbarpur, P.S.-Rajhat, District-Nawada presently working as I/C Headmaster at R.S.S. High School Merhkuri, District-Nawada on deputation from High School Ram Lal Ucch Vidyalaya Targir, District-Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Primary, Secondary and Adult Education, Government of Bihar, New Secretariat, Patna.
3. The Director, Secondary Education, Budh Marg, Patna.
4. The District Education Officer, Nawada.
5. Regional Deputy Director of Education Magadh Division, Gaya.
6. The Head Master, High School, Sirdala, District-Nawada.
7. The Incharge Head Master, High School, Targir, District-Nawada.

.... Respondent/s

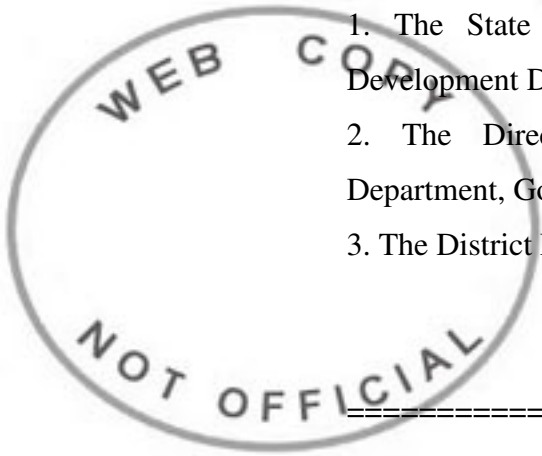
with

Civil Writ Jurisdiction Case No. 17348 of 2012

Kamal Nayan Sharma, Son of Late Rajo Pandey, resident of Village-Onama, P.O.-Onama, P.S.-Barbiga, District-Sheikhpura.

.... Petitioner/s

Versus



1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director, Secondary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Nawada, P.O.+P.S.+District-Nawada.
5. The Headmaster, Project Girls High School, Govindpur Nawada, P.O.+P.S.-Govindpur, District-Nawada.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 19321 of 2010

Ramdeo Yadav, Son of Late Keshav Yadav, resident of Village-Sahora, P.S.-Rameshwar Nagar Ashok Paper Mill, District-Darbhangha, at present Peon, Project Girls High School, Anandpur, P.S.-Rameshwar Nagar Ashok Paper Mill, District-Darbhangha.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director (Secondary Education), Human Resources Development Department, Government of Bihar, Patna.
3. The Regional Deputy Director of Education Darbhanga Division, Darbhanga.
4. The District Education Officer, Darbhanga.
5. The Incharge Headmistress, Project Girls High School Anandpur, P.S.-Rameshwar Nagar, Ashok Paper Mill, District-Darbhangha.
6. Laldai Devi, Wife of Arjun Jha, resident of Village-Sahara, P.S.-Rameshwar Nagar, Ashok Paper Mill, District-Darbhangha.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 21009 of 2012

Smt. Geeta Kumari, Wife of Sri Rajendra Prasad Singh, Assistant teacher-cum-Incharge Head Mistress, Project Girls High School, Karande, Anchal-Chewara,

District-Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.

2. The Director, Secondary Education, Bihar, Patna.

3. The Regional Deputy Director of Education, Munger Division, Munger.

4. The District Education Officer, Sheikhpura.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 5111 of 2008

Smt. Pramila Kumari, Wife of Sri Mahesh Nandan Singh, posted as Acting Headmistress in Project Girl’s High School Karande, Block-Chewara, District-Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources, Govt. of Bihar, Patna.

2. The Director, Secondary Education, Bihar, Patna.

3. The Regional Deputy Director of Education, Munger.

4. The District Education Officer, Sheikhpura, District-Sheikhpura.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 10906 of 2010

Radhey Shyam Kumar, Son of Sri Baleshwar Singh, R/o Village & PO-Lalgunj Sehra, PS-Paligunj, Patna, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

2. The Secretary, Department of Human Resources and Development, Patna.

3. The Director, Secondary Education, Government of Bihar, Patna.

4. The Head Master, Project Girls High School, Paligunj, Patna.
5. The Secretary, Project Girls High School, Paligunj, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11298 of 2010

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Praveen Kumar Mandal, Son of Late Suresh Chandra Mandal, assistant teacher,
Project Girls High School, Falaka, P.S.-Falaka, District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education) Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna-1.
3. The Regional Deputy Director of Education, Purnea Division, Purnea.
4. The District Education Officer, Katihar.
5. The Three-man committee, Human Resources Development Department, New Secretariat, Patna constituted in view of the Judgment and order dated 03.01.2006 passed in Civil Appeal No. 6626-6675 of 2001 by the Hon’ble Supreme Court through its convener Shree Anup Kumar Sinha.
6. Shree Anup Kumar Sinha, Son of name not known, the Convener, Three Man Committee (the respondent No.5) Human Resources Development Department, New Secretariat, Patna at present posted as, Secretary, Bihar School Examination Board, Patna-17.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11513 of 2010

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Ravindra Kumar, Son of Late Sarjug Prasad, Assistant Teacher, Sardar Mangal Singh, Project Girls High School Maina Tand, Police Station-Maina Tand, District West Champaran.

.... Petitioner/s



Versus

1. The State of Bihar through the Principal Secretary Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education), Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna.
3. The Deputy Director (Secondary Education), Bihar Secondary Education Office, Budh Marg, Patna.
4. The District Education Officer, West Champaran.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 11539 of 2010

Natheshwar Prasad Sah, Son of Mahavir Prasad, assistant teacher, Sohani Devi Sharda Project Girls High School, Barsoi, P.S. and Block-Barsoi, Katihar.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education), Human Resources Development Department, Bihar Secondary Education Office, Budh Marh, Patna-1.
3. The Regional Deputy Director of Education, Purnea Division, Purnea.
4. The District Education Officer, Katihar.
5. The Three-man committee, Human Resources Development, New Secretariat, Patna constituted in view of the Judgment and Order dated 03.01.06 passed in Civil Appeal No. 6626-6675 of 2001 by the Hon’ble Supreme Court through its convener Shree Anup Kumar Sinha.
6. Shree Anup Kumar Sinha, Son of name not known, the Convener, Three Man Committee (the respondent No. 5) Human Resources Development Department, New Secretariat, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 11611 of 2010

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Maineger Prasad, Son of Late Mahabir Prasad, Assistant Teacher, Sardar Mangal Singh Project Girls High School Mainatar, P.S.-Mainatar, District-West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education) Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna.
3. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
4. The District Education Officer, West Champaran.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 12890 of 2011

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Nagendra Kumar, Son of late Kirt Narayan Singh, resident of Village-Laraw, P.S.-Makhdumpur, District-Jehanabad, at present Incharge Headmaster of Project Girls High School Makhdumpur, P.s.-Makhdumpur, District-Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Human Resources Development Department, Govt. of Bihar, Patna.
3. The District Education Officer, Jehanabad.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 12111 of 2010

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Ram Vinay Kumar Prabhakar, Son of Shri Ram Naresh Prasad Singh, resident of

Village-Badiha, P.S.-Dhanarua, District-Patna at present Assistant Teacher Project Shymta Devi Girls High School Dhanarua, P.S.-Dhanarua, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director (Secondary Education) Human Resources Development Department, Government of Bihar, Patna.
3. The Regional Deputy Director of Education Patna Division, Patna.
4. The District Education Officer, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 12336 of 2010

Keshwa Nand Acharya, Son of Sharda Nan Acharya, Clerk, Vijya Smarak Project Girls School, Alamnagar, District-Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The Director, Department of Secondary Education, Government of Bihar, Patna.
3. The Regional Deputy Director, Koshi Commissionary, Saharsa.
4. The District Education Officer, Madhepura.
5. The Headmaster, Vijya Smarak Project Girls High School, Alamganar, District-Madhepura.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 12417 of 2010

Punam Kumari, Wife of Dr. Sunil Kumar and Daughter of Late Tapeswar Sharma, resident of Village-Chehuta, P.S.-Rani Talab Bikram, District-Patna, at present Assistant Teacher, Project Kanya Uchcha Vidyalan, Paliganj, P.S.-Paliganj, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.

2. The Director (Secondary Education), Human Resources Development, Government of Bihar, Patna.

3. The District Education Officer, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 12420 of 2009

Laldai Devi, Wife of Arjun Jha, resident of Village-Sahara, P.S.-Rameshwar Nagar, Ashok Paper Mill, District-Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Human Resources Department, Government of Bihar, New Secretariat, Patna.

2. Director, Secondary Education, Government of Bihar, New Secretariat, Patna.

3. Regional Deputy Director of Education, Darbhanga.

4. District Education Officer, Darbhanga.

5. Principal, Project Girls High School, Anandpur, Sahora, District-Darbhanga.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 15901 of 2012

Ram Naresh Singh, Son of Late Jhakari Singh, resident of Village-Gaura, P.S.-Bhagwanpur, District-Kaimur at Bhabhua.

.... Petitioner/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Department of Human Resources, Bihar, Patna.

3. The Director, Secondary Education, Budh Marg, Patna.

4. The Regional Deputy Director of Education, Patna Division, Patna.

5. The District Education Officer, Kaimur at Bhabhua.

6. The Headmaster, Sri Radha Krishna Project High School, Chitadhi, Kaimur at Bhabhua.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 6871 of 2011

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1. Bashishtha Narayan, Son of Deo Narayan Rai, resident of Village-B.Satai, P.O.-Peuli, P.S.-Barkagaon, District-Gopalganj, at present posted and working as Assistant Teacher in Project Kanya High School Hathua, Anchal-Hathua, District-Gopalganj.

2. Sanjay Kumar, Son of Shri Ram Nagina Pandey, resident of Village and P.O.-Hathua, District-Gopalganj, at present posted and working as Assistant Teacher in Project Kanya High School Hathua, Anchal-Hathua, District-Gopalganj.

3. Baldeo Prasad, Son of Late Shivnath Prasad, resident of Village-Hathua Dakshin Muhalla, P.O. & P.S.-Hathua, District-Gopalganj, at present posted and working as Assistant Teacher in Project Kanya High School Hathua, Anchal-Hathua, District-Gopalganj.

4. Surendra Prasad Yadav, Son of Shankar Prasad Yadav, resident of Village-Chhota Kolrauli, P.O. and P.S.-Hathua, District-Gopalganj, at present posted and working as Assistant Teacher in Project Kanya High School Hathua, Anchal-Hathua, District-Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.

3. The Director, Secondary Education, Bihar, Patna.

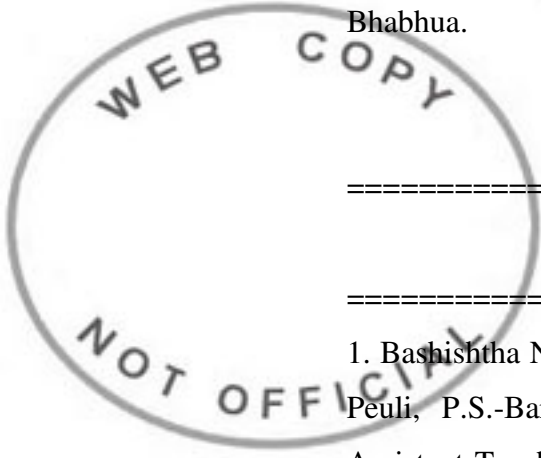
4. The Regional Deputy Director of Education, Saran Division at Chapra.

5. The District Education Officer, Gopalganj.

6. The District Mass Education Officer, Gopalganj.

7. The Headmaster, Project Kanya High School, Hathua, Anchal-Hathua, District-Gopalganj.

.... Respondent/s



with

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Civil Writ Jurisdiction Case No. 21974 of 2012

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Gopi Raman Jha, Son of Shri Ram Narayan Jha, resident of Village-Sahora, P.O.-Anandpur, P.S.-Ashok Paper Mills Rameshwar Nagar, District-Darbhangha, at present assistant teacher in Project Girls High School Anandpur, District-Darbhangha.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
3. The District Education Officer, Darbhanga.

.... Respondent/s

with

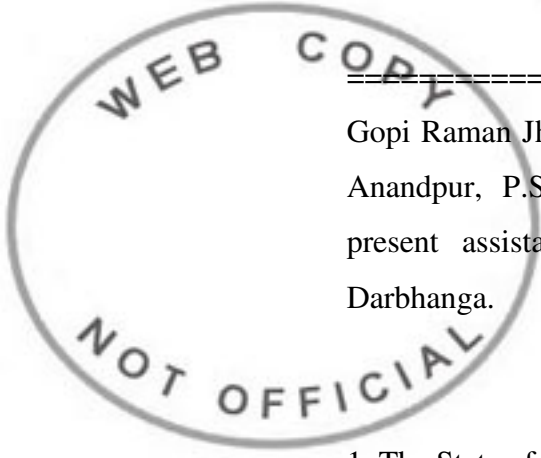
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Civil Writ Jurisdiction Case No. 19560 of 2010

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1. Saryu Prasad, Son of Late Ram Chandra Prasad, resident of Village-Baradih, P.S.-Sirdala, District-Nawada.
2. Bhola Prasad, Son of Shri Budhan Mahto, resident of Village-Patha, P.S.-Meskaur, District-Nawada.
3. Lalan Kumar, Son of Shri Shiv Narayan Prasad, resident of Village-Deyalligha, P.S.-Barbigaha, District-Sheikhpura.
4. Lakhan Prasad, Son of Late Dhenu Prasad, resident of Village-Murtia, P.S.-Sirdala, District-Nawadah.
5. Vijay Kumar Ghosh, Son of Shri Narendra Prasad, resident of Village-Sherpur, P.S.-Sirdala, District-Nawada.
6. Rameshwar Prasad, Son of Late Kokil Prasad Yadav, resident of Village-Babani Nagwan, P.S.-Sirdala, District-Nawada.
7. Lachho Devi, Wife of Shri Amrit Prasad, resident of Village-Koldiha, P.S.-Sirdala, District-Nawada.

Petitioner No. 1 in Acting Headmaster, Petitioner No. 2 to 4 are assistant teacher.



Petitioner No. 5 is clerk and petitioner no. 6 and 7 are peon in project Lakhan Devi Mathura Girls High School Sirdala, Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development, Government of Bihar, Patna.
2. The Director (Secondary Education) Human Resources Development Department, Government of Bihar, Budh Marg, Patna.
3. The District Education Officer, Nawada.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 21970 of 2012

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Shwetambar Jha, Son of Digambar Jha, resident of village-Mahinathpur, P.S.-Basopatti, District-Madhubani, at present assistant teacher in Project Girls High School Mahinathpur, P.S.-Basopatti, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
3. The District Education Officer, Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 20605 of 2012

=====

Shree Niwas Singh, Son of Late Hazari Singh, Acting Headmaster, Project Girls High School Nokha, P.S.-Nokha, District-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan,

- Patna.
2. The Director (Secondary Education), Human Resources Development Department, Bihar Secondary Education Office, Budh Marh, Patna-1.
 3. The Regional Deputy Director of Education, Patna Division, Patna.
 4. The District Education Officer, Rohtas, District-Rohtas.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 10893 of 2010

=====

Kanchan Kumari, Wife of Shree (Dr) Vijay Kumar Gupta, Assistant teacher, Project Girls High School, Bastaul, P.S.-Pranpur, District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education), Human Resources Development Department, Bihar Secondary Education Office, Budh Marh, Patna-1.
3. The Regional Deputy Director of Education, Purnea Division, Purnea.
4. The District Education Officer, Katihar.
5. The Three-man committee, Human Resources Development, New Secretariat, Patna constituted in view of the Judgment and Order dated 03.01.06 passed in Civil Appeal No. 6626-6675 of 2001 by the Hon’ble Supreme Court through its convener Shree Anup Kumar Sinha.
6. Shree Anup Kumar Sinha, Son of name not known, the Convener, Three Man Committee (the respondent No. 5) Human Resources Development Department, New Secretariat, Patna at present posted as, Secretary, Bihar School Examination Board, Patna-17.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11630 of 2012

=====

Onkar Nath Dubeydi, Son of Shree Basant Kumar Dubey, Acting Headmaster,

Project Girls High School, Ramsahar, P.S.-Barahara, District-Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar, through its Principal Secretary, Department of Education, New Secretariat, Vikas Bhawan, Patna.
2. The Principal Secretary, Department of Education, New Secretariat, Vikas Bhawan, Patna.
3. The Director (Secondary Education), Department of Education, New Secretariat, Vikas Bhawan, Patna.
4. The Regional Deputy Director of Education, Patna Division, Patna.
5. The District Education Officer, Bhojpur.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 11699 of 2012

Shailendra Kumar Ojha, Son of Shree Hridyanand Ojha, Acting Headmaster, Project Girls High School Chand, P.S.-Chand, District-Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Principal Secretary, Education Department, New Secretariat, Vikas Bhawan, Patna.
3. The Director (Secondary Education), Education Department, Bihar Secondary Education Office, Budh Marg, Patna.
4. The Deputy Director (Secondary Education), Incharge Project Schools, Education Department, Bihar Secondary Education Office, Budh Marg, Patna.
5. The Regional Deputy Director of Education, Patna Division, Patna.
6. The District Education Officer, Kaimur.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 10854 of 2010

Pradip Kumar, Son of late Kailash Chandra Shah, Acting Headmaster, Project Girls High School Kumhari, P.S. and Block-Kadawa, District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education) Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna-1.
3. The Regional Deputy Director of Education, Purnea Division, Purnea.
4. The District Education Officer, Katihar.
5. The Three-man committee, Human Resources Development Department, New Secretariat, Patna constituted in view of the Judgment and Order dated 03.01.2006 passed in Civil Appeal No. 6626-6675 of 2001 by the Hon'ble Supreme Court through its convener Shree Anup Kumar Sinha.
6. Shree Anup Kumar Sinha, Son of name not known, the Convener, Three Man Committee (the respondent No.5) Human Resources Development Department, New Secretariat, Patna at present posted as, Secretary, Bihar School Examination Board, Sinha Road Library Road, Patna-17.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 23272 of 2012

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Ravi Bhushan Singh, Son of Shree Markandey Singh, Acting Headmaster, Project Girls High School Brahmpur, P.S.-Brahmpur, District-Buxar.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education) Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna-1.
3. The Regional Deputy Director of Education, Patna Division, Patna.

4. The District Education Officer, Buxar.

5. The Three-man committee constituted in term of the Judgment and order dated 03.01.2006 passed by the Hon'ble Supreme Court in Civil Appeal No. 6625-76 of 2001 through its convener Shree Anup Kumar Sinha, Human Resources Development Department, New Secretariat, Patna.

6. Shree Anup Kumar Sinha, Son of name not known, the Convener, Three Man Committee (the respondent No.5) Human Resources Development Department, New Secretariat, Patna at present posted as, Secretary, Bihar School Examination Board, Patna-17.

7. Shree Raghubansh Kumar, Son of name not known the member, Three man committee (the respondent No.5) Department of Human Resources Development, New Secretariat, Vikas Bhawan, Patna, at present Director (Educational), Bihar School Examination Board, Sinha Library Road, Patna.

.... Respondent/s

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Appearance :

(In CWJC No. 10872 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (SC17), Advocate

(In CWJC No. 7133 of 2012)

For the Petitioner/s : Mr. BISHWANATH PRASAD SINGH, Advocate

For the Respondent/s : Mr. K.P. GUPTA (SC16), Advocate

(In CWJC No. 9178 of 2012)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. S.D. SANJAY (AAG12), Advocate

(In CWJC No. 13159 of 2013)

For the Petitioner/s : Mr. SANJAY KUMAR, Advocate

For the Respondent/s : Mr. GAUTAM BOSE, Advocate

(In CWJC No. 13104 of 2013)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. SANJAY KR NO.1, Advocate

(In CWJC No. 11695 of 2012)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. PRASOON SINHA (GA2), Advocate

(In CWJC No. 3038 of 2011)

For the Petitioner/s : Mr. BIPIN BIHARI SINGH, Advocate

For the Respondent/s : Mr. RAJESH SINGH (GP16)

(In CWJC No. 4174 of 2011)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. JAYSHANKAR VERNWAL (SC1), Advocate

(In CWJC No. 13406 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (SC19), Advocate

(In CWJC No. 14635 of 2011)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. PAWAN KR. MISHRA (GP22), Advocate

(In CWJC No. 15078 of 2010)

For the Petitioner/s : Mr. PUSHKAR NARAIN SHAHI, Advocate

For the Respondent/s : Mr. (GA7), Advocate

(In CWJC No. 17348 of 2012)

For the Petitioner/s : Mr. BIPIN BIHARI SINGH, Advocate

For the Respondent/s : Mr. ANJANI KUMAR (AAG10), Advocate

(In CWJC No. 19321 of 2010)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. (SC8), Advocate

(In CWJC No. 21009 of 2012)

For the Petitioner/s : Mr. ARUN KUMAR, Advocate

For the Respondent/s : Mr. RAJEEV KR. SINGH (GP15), Advocate

(In CWJC No. 5111 of 2008)

For the Petitioner/s : Mr. ARUN KUMAR, Advocate

For the Respondent/s : Mr. (SC6), Advocate

(In CWJC No. 10906 of 2010)

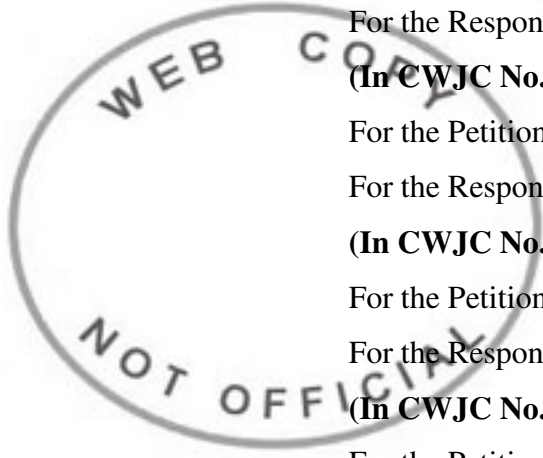
For the Petitioner/s : Mr. ASHOK KUMAR CHOUDHARY, Advocate

For the Respondent/s : Mr. (SC17), Advocate

(In CWJC No. 11298 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (SC14), Advocate

(In CWJC No. 11513 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (GP18), Advocate

(In CWJC No. 11539 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (SC13), Advocate

(In CWJC No. 11611 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (GP16), Advocate

(In CWJC No. 12890 of 2011)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. ASHOK KUMAR KESHRI (AAG11), Advocate

(In CWJC No. 12111 of 2010)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. (GP9), Advocate

(In CWJC No. 12336 of 2010)

For the Petitioner/s : Mr. PRAMOD MISHRA, Advocate

For the Respondent/s : Mr. (SC10), Advocate

(In CWJC No. 12417 of 2010)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. (GA10), Advocate

(In CWJC No. 12420 of 2009)

For the Petitioner/s : Mr. BHUBNESHWAR PRASAD, Advocate

Mr. VIJAY KUMAR SRIVASTAVA, Advocate

For the Respondent/s : Mr. (GP11), Advocate

(In CWJC No. 15901 of 2012)

For the Petitioner/s : Mr. JAYA PRAKASH SINGH, Advocate

For the Respondent/s : Mr. RAKESH KR. SAMRENDRA (SC21), Advocate

(In CWJC No. 6871 of 2011)

For the Petitioner/s : Mr. UMESH KUMAR MISHRA, Advocate

For the Respondent/s : Mr. J.S. ARORA (SC6), Advocate

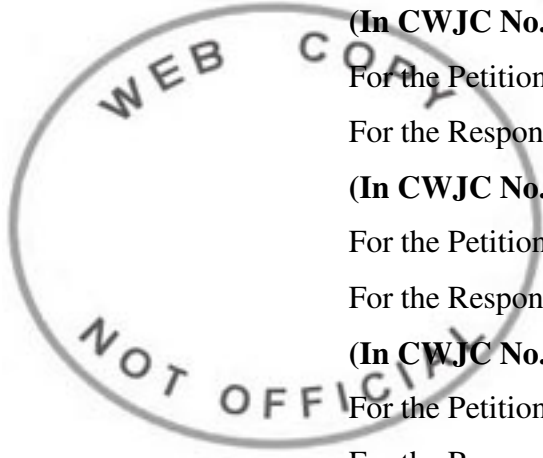
(In CWJC No. 21974 of 2012)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. RAJIV KUMAR SINGH (GP2), Advocate

(In CWJC No. 19560 of 2010)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate



For the Respondent/s : Mr. DHURANDHAR PD. CHY(SC2), Advocate

(In CWJC No. 21970 of 2012)

For the Petitioner/s : Mr. RAM SAGAR SINGH, Advocate

For the Respondent/s : Mr. NIVEDITA NIRVIKAR (GP3), Advocate

(In CWJC No. 20605 of 2012)

For the Petitioner/s : Mr. SANJAY KUMAR, Advocate

For the Respondent/s : Mr. RAJESH SINGH (GP16), Advocate

(In CWJC No. 10893 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (AAG10), Advocate

(In CWJC No. 11630 of 2012)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. A.UJJWAL (SC25), Advocate

(In CWJC No. 11699 of 2012)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. DINBANDHU SINGH (GP9), Advocate

(In CWJC No. 10854 of 2010)

For the Petitioner/s : Mr. AJAY KUMAR SHARMA, Advocate

For the Respondent/s : Mr. (SC1), Advocate

(In CWJC No. 23272 of 2012)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

C.A.V. JUDGMENT

Date: 22-05-2015

Before I outline the long history of the litigation of the present batch of writ applications, I must indicate in the beginning that a report submitted by a Three-Man Committee constituted under the orders of Supreme Court in case of “State



of Bihar & Others Vs. Project Uchcha Vidya, Sikshak Sangh", reported in **"(2006) 2 Supreme Court Cases 545"** and consequent decision taken by the State Government thereon, is under challenge in these cases. The concept of having Project Schools in the State of Bihar was introduced in the year 1981. Various circulars and letters were issued by the State Government and the concerned department from time to time. I will be referring to those circulars and letters in my present judgement later, but I must make it clear at the outset that these matters are covered by a letter issued vide No. 12 (C) dated 25th of January 1985, whereby a decision was taken to establish one Project Girls' High School in each in 300 Blocks of the State of Bihar during the financial year 1984-85, which at times are described as second phase Project Schools. The disputes in the present matters relate to recognition of services of teachers and non-teaching employees, who claim that they were appointed by the Managing Committees of such schools which, according to them, were selected by a Three-Man District Level Committee, for the purpose of establishing a project school in each Block, as per the scheme of the State Government.

2. Learned counsel representing the petitioners have questioned the findings of report of the Three-Man Committee,



constituted subsequently by the Supreme Court in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)** and subsequent decision taken by the State Government on the basis of the said report on various grounds, more particularly the ground that the orders impugned are non-speaking and do not take into account the plea of the respective petitioners, taken by them before the Three-Man Committee in their representations/appeals and have accordingly contended that the reports and the orders deserve to be set aside. I could have considered this plea of the orders being non-speaking, which are under challenge, but instead, keeping in mind long pendency of these matters, I have thought it proper to adjudicate the respective cases of these petitioners on merits on the basis of respective pleadings/report of the said Three-Man Committee, other materials on record as well as Full Bench decision of this Court and the Supreme Court decision, as far as I have found it to be practicable, and keeping in mind well known principles of scope judicial review of administrative action under Article 226 of the Constitution of India. I had the occasion to peruse the Three-Man Committee report, which was constituted by the Apex Court, which in fact is at the core of the disputes in the present bunch of cases.



3. The State of Bihar came out with a circular bearing No. 1115 dated 27th of May 1981 laying down a policy that during the periods 1981-82 to 1984-85, it shall establish at least 4 high schools in every Block, out of which, one may be a Girls' High School. The circular recognized the ground reality that there were many Blocks where less than four High Schools were functioning. Out of 587 Blocks, the State of Bihar identified 435 Blocks, where even a single Girls' High School was not recognized. Through the said circular, the government proposed to open 150 schools in the financial year 1981-82, 200 schools in the financial year 1982-83, 200 schools in the financial year 1983-84 and 100 schools in the financial year 1984-85. The State Government achieved the target of establishing 150 High Schools in the financial year 1981-82. These schools, so established, in the financial year 1981-82 are commonly known as "First Phase Project Schools". No project school, however, could be opened in subsequent years i.e. 1982-83 and 1983-84. The State of Bihar, thereafter, through its Department of Education, came out with a **Letter No. 12 (C) dated 25th of January 1985**, reference of which, I have given in the opening paragraph of my present judgement. The letter contained, *inter alia*, Schedule-II containing **names of 300 Blocks**



and places where there were no Girls' Schools and where it was proposed to construct school buildings under Rural Landless Employment Guarantee Programme (RLEGP). It was indicated in the said letter that buildings should be constructed normally at Block Headquarters and if, in the special circumstances, it was found not practicable to construct school buildings at Block Headquarters, a nearby village might be selected having substantial population. It also mentioned that some specific names of places would be sent, subsequently, with the approval of the State Government. This letter dated 25 January 1985 was addressed to all the District Magistrates in the State of Bihar. On 12 February 1985, the Education Department, Government of Bihar sent communications to all the District Magistrates/ Deputy Commissioners in the State containing a list of 75 Girls' High Schools which were selected by the State Government to be opened in the light of earlier letter dated 25th of January 1985. In quick succession, through letter dated 23rd February 1985, addressed to all District Magistrates and Deputy Commissioners and Deputy Development Commissioners, the Education Department laid down the procedure for selection of places for the purpose of construction of school buildings and other matters. It required Constitution of a Three-Man



Committee comprising the District Magistrate, the District Development Officer and the District Education Officer of the concerned district (hereinafter referred to as the “District Level Committee”). District Education Officer was made coordinator of the Committee. It laid down the following basic criteria for selection of Girls’ Schools which are as under:-

(a.) First priority would be given to Block Headquarters in the matters of selection of sites for the schools.

(b.) In case there was no Girls’ School in the Block Headquarter, the Selection Committee will decide as to which place would be most suited for establishment of a Girls’ School.

(c.) If more than one Girls’ Schools had been established at a Block Headquarter or outside by public cooperation, selection of the school would be made purely on the basis of amenities available in such school established with the permission of the State Government.

(d.) If any school established with the public cooperation is to be taken under the project, teachers in such schools shall be appointed only through Bihar School Service Board.

(e.) Selection for appointments against non-teaching posts shall be made by the Deputy Development Commissioner from

*a Panel prepared in the office of the
District Magistrate.*

4. The said letter dated 23 February 1985 has been taken into account by the Full Bench of this Court in case of **“Project Uchcha Vidyalaya Shikshak Sangh Vs. State & Ors.,** reported in **“2000 (1) PLJR 287”**.

5. Disputes arose thereafter over the recognition/non-recognition of schools as Project Schools of Second Phase. Several writ applications were filed by persons aggrieved by decision of the respondents refusing to recognize the services of teaching and non-teaching staffs. The matter had earlier also travelled up to Supreme Court and upon remand from Supreme Court to the High Court, in view of conflicting views of this Court; a Full Bench was constituted, to decide the dispute.

The cases were heard in bunch by the Full Bench of this High Court and finally an order was passed on 07.12.1999 reported in **“2000 (1) PLJR 287 (Project Uchcha Vidyalaya Shikshak Sangh Vs. State & Ors.).**

Against the aforesaid order of Full Bench of the Hon’ble High Court, appeals were filed before the Supreme Court, vide SLP Nos. 6614-6663 of 2000.

The Supreme Court finally disposed of the matter by judgment dated 03.01.2006 in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)** holding *inter alia* as follows:-

“Even if there is no dispute as regard number of schools, in view of the stand taken by the State and particularly in view of the fact that it appears from the records that recognition of the school, if any, had wrongly been granted to some schools where building were also not completed or the process of selection was not over. It may be necessary for the State to have a further look in the matter.”

“It is furthermore necessary to scrutinize as to whether the teaching and non-teaching staff appointed for the said purpose fulfil the criteria in terms of the policy decision of the State or not. Their qualification laid down under other relevant statutes for the purpose of obtaining permission must also be scrutinized.”

“Having said so, we must observe that the ultimate decision must be left at the hands of the State. In view of the Cabinet decision dated 25.01.2000, 300 schools are said to have been recognized. We have however, our doubts as to whether all correct facts have been placed before the cabinet or not particularly in view of the fact that many of the schools



which were established in Chhotanagapur and Santhal Pargana, are now in the State of Jharkhand. We have pondered over the matter but we are not very sure as to whether apart from the schools, which had been identified by the three man committee and admittedly recognized by the State, any final decision had been taken as regards the recognition or otherwise of the remaining schools by the appropriate authority”.

The Supreme Court directed the Chief Secretary of the State of Bihar to constitute a committee comprising of two officers and one educationist of repute and or a retired Judicial Officer and the said committee was directed to submit a report before the Chief Secretary within three months, upon scrutinizing the claims of institutions and the teaching and non-teaching staffs. The Apex Court further directed that on getting the report, the Chief Secretary shall place the report before the appropriate authority with his comments in terms of the rules of the Executive business and the said authority had been directed to take appropriate decision within four months.

On the aforesaid direction of the Hon'ble Supreme Court a three man committee was constituted vide Memo No. 41 (p) dated 09.03.2006, for the purpose of examining the claim of schools to be Project Schools (Second Phase) and also

for the purpose of examining the personal grievances of the teaching and non-teaching staffs of the Project Schools of 1984-85, relating to recognition of their services.

The Three-Man Committee, through Press communiqué, invited the claims of the concerned Project Schools of 1984-85 phase and individuals in prescribed proforma and on receipt of the claims they were considered and examined by the Committee.

The Three-Man Committee, before deciding the matters of the Project Schools of Phase 1984-85 (second phase) and the matters of approval of services of their teaching and non-teaching staff, had decided the norms for recognition of services of teaching and non-teaching staff which were approved by the government. On examination of the matter, the committee found that certain schools were directly established and being run by the State Government and there was no proof furnished that they were established and run by the Managing Committee and were selected for Project Schools by the District level Three-Man Committee, headed by the concerned District Magistrate. When the norms in respect of the approval of services of teaching and non-teaching staff were not found fulfilled, the claim was rejected

by the impugned order.

As per the decision of the Government, such teaching and non-teaching staffs who were not satisfied with the order of the department, they could move the Director (Secondary Education), Bihar, if according to them, their claims were within the acceptable norms and the Director (Secondary Education) was in turn required to decide their claims after obtaining necessary order of the Government. Accordingly, the representation from the Staffs of the school was also received in the department and after due consideration, their claims have again been rejected.

This is the background in which the petitioners have approached this Court in the present bath of writ applications, where the petitioners have questioned the respective orders denying their claims to be recognized as teaching and non-teaching employees of Project Schools. There is also dispute in some of the cases, where the petitioners have claimed to be appointed as Headmaster on the ground that they were founder in charge-Headmasters of Project Schools. Such cases have also been dealt with in the present judgment.

6. The petitioners of C.W.J.C. No. 10872 of 2010,



C.W.J.C. No. 11539 of 2010, C.W.J.C. No. 20605 of 2012, C.W.J.C. No. 10893 of 2010, C.W.J.C. No. 11630 of 2012, C.W.J.C. No. 10854 of 2010, C.W.J.C. No. 11699 of 2012, C.W.J.C. No. 23272 of 2012 and C.W.J.C. No. 11298 of 2010 have sought for quashing of respective orders, whereby, the Director, Secondary Education, Government of Bihar, communicated refusal of their claims to recognize their services as teachers/non-teaching employees appointed by a Management Committee of the concerned Project Schools, on the basis of the report of Three-Man Committee, constituted in the light of the Supreme Court judgment in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)**. The Committee found that the concerned schools were not established by the Managing Committee nor run by the Managing Committee rather the schools were established and being run directly by the State Government. The impugned orders provided that a teaching or non-teaching employee aggrieved by such orders which are based on the report of the Enquiry Committee, may submit his representation/complaint before the Director, Secondary Education (Bihar). In some of the cases, by subsequent orders, the claim of the petitioners upon a plea raised against the order passed by the Director,

Secondary Education based on the report of Three-Man Enquiry Committee, also came to be rejected by separate orders, which have been brought on the record by way of Annexures to the writ applications and have been challenged.

7. In C.W.J.C. No. 10872 of 2010, an office order issued by the Director, Secondary Education, Government of Bihar dated 26.08.2008, which has been brought on record by way of Annexure-1, is under challenge, whereby, the claim of the petitioner for recognition of his service as teacher of Project Girls High School, Korha, Katihar, has been rejected on the ground that the Three-Man Committee, upon enquiry found that the said Project Girls High School, Korha, Katihar was established and being run directly by the State Government and not by any Managing Committee. In this background, it appears that the petitioner's claim of having been appointed as teacher by Managing Committee has been rejected. A liberty was, however, given in the order dated 26.08.2008 to the petitioner, if aggrieved by the said order dated 26.08.2008, to make a representation before the Director, Secondary Education, Government of Bihar accordingly. The Director, however, by an office order dated 19.04.2010, rejected the petitioner's claim. The petitioner has



challenged both the orders dated 26.08.2008 and 19.04.2010, on a plea that the school was being run by the Managing Committee and teaching and non-teaching employees were appointed by a Managing Committee of the School. The District Education Officer, Katihar is said to have inspected the school and had sent the project report to the Deputy Director of Education, Koshi Division to send it to the Directorate, so that, it might be placed before the Screening Committee, constituted for the purpose of recommendation to the State Government for recognition of services of teaching and non-teaching staff. It has been asserted that project report, as regards existence of the school and being managed by the Managing Committee with people's cooperation was sent vide Letter No. 817 dated 21.07.1992, which has been annexed as Annexure-7 to the writ application. The petitioner has, accordingly, contended that it has wrongly been held in the impugned orders that the school in question was being run by the State Government.

8. In C.W.J.C. No. 11539 of 2010, similar claim has been rejected on the same ground by order dated 26.08.2008, issued under the signature of Director, Secondary Education, Government of Bihar, relates to Project Girls High



School, Barsoi, Katihar. The petitioner had preferred a representation in view of the liberty granted vide order dated 26.08.2008 before the Director, which has been rejected by an order dated 19.04.2010. These two orders are under challenge in C.W.J.C. No. 11531 of 2010.

9. In C.W.J.C. No. 10893 of 2010, similar order, passed by the Director, Secondary Education, Government of Bihar dated 26.08.2008, in respect of Project Girls High School, Bastaul, Katihar, is under challenge. In that case also the petitioner had preferred a representation in the light of the liberty granted in office order dated 26.08.2008. By an order dated 19.04.2010, the claim of the petitioner has been rejected.

10. Similar dispute is involved in C.W.J.C. No. 20605 of 2012, which relates to Project Girls High School, Nokha, Rohtas, in which case, the order of the Director, Secondary Education, dated 26.08.2008 and subsequent order dated 19.04.2010 are under challenge and the orders have been brought on the record by way of Annexure-1 and 1/A to the writ application.

11. In C.W.J.C. No. 11630 of 2012, the petitioner, namely, Onkar Nath Dubeydi, is aggrieved by the decision of respondents dated 19.04.2010 (Annexure-1), whereby,



recognition of service of teachers of Project Girls High School, Ramshar, Barahara under the district of Bhojpur has been rejected on the ground that the said school is directly run by the State Government. In the impugned order, it has specifically been mentioned that no school at the said place, being run by the School Management Committee, was selected by the State Government nor it was selected by a Three-Man Committee at the district level, headed by the District Magistrate. It has been mentioned that no project report with respect to the school in question was received by the Government under the signature of Additional Direction of Education, Government of Bihar. On the one hand, it is the petitioner's case that a Project Girls High School was decided to be established at Ramsahar in Barahara block of Bhojpur district and the district level Three-Man Committee had selected the school of the petitioner where he had been working, which was being run by the Managing Committee; this is the specific stand of the respondents-the State of Bihar in its counter affidavit and supplementary counter affidavit that the Project Girls High School, Ramsahar in the district of Bhojpur was amongst one of the such Project Girls High School, which was directly established and run by the State



Government. The respondents have brought on record a letter dated 27.08.1993, written by the Director, Secondary Education, Government of Bihar, addressed to the Secretary, Bihar School Examination Board, communicating the list of such schools, which were being run by the State Government. The present school figures in the said list. This is to be kept in mind that the scheme of the State Government contemplated establishment of one Girls Project High School in each block. In the said list annexed with the letter dated 27.08.1993, a project school for Barahara block has been referred to as having been established and run by the State Government. I do not find any reason to interfere with the impugned order dated 19.04.2010. I do not find any merit in this application.

11. Similar is the case involved in C.W.J.C. No. 10854 of 2010 (Pradip Kumar Vs. The State of Bihar & Ors.), which relates to Project Girls High School, Kumhari Kadwa in the district of Katihar. The name of the school finds place in the letter dated 27.08.1993, issued by the Director, Secondary Education, Government of Bihar, as Project Girls High School for Kadwa block in the district of Katihar. There is specific stand in the second supplementary counter affidavit



filed on behalf of the respondents-the State of Bihar that no such school was being run by the Private School Managing Committee, which was selected by the district level Three-Man Committee. It has further been stated that presently, in the said school, six teachers are working, who have been appointed under “Bihar Panchayat Elementary Teachers (Employment and Service Condition) Rules, 2006”. It has also been stated that clerk and peon are working in the school. There is specific statement in the said second supplementary counter affidavit filed on behalf of the respondents-the State of Bihar that as per report of the District Education Officer, Kadamu, the school which is being claimed to be run by a Private Management Committee, as a matter of fact, does not exist.

Mr. Pandey, learned counsel appearing on behalf of the petitioner, has referred two orders of this Court, dated 20.09.2013 passed in C.W.J.C. No. 4862 of 2011 (Anil Singh Vs. The State of Bihar) and dated 20.12.2013 passed in C.W.J.C. No. 18887 of 2008 (Ranjana Kumari Vs. The State of Bihar), in support of his plea that in similar situation, this Court had directed for payment of salary. In my opinion, the disputes, which the present writ application involves, have not



been adjudicated upon by this Court and the said orders relate to different schools. I do not find any reason to dispute the correctness of the list enclosed with letter dated 27.08.1993, issued by the Director, Secondary Education, Government of Bihar, which is addressed to the Secretary, Bihar School Examination Board from which, it appears that one school in the Kadawa block of district Katihar was established by the State Government and was being run by the State Government. I do not find any merit in this application.

12. In C.W.J.C. No. 11699 of 2012 (Shailendra Kumar Ojha Vs. The State of Bihar & Ors.), the order dated 26.08.2008, passed by the Director, Secondary Education, is under challenge, whereby, the claim that Project Girls High School, Chand in the district of Kaimur was being run by the School Managing Committee and such school, having been selected as Project Girls High School, has been rejected on the ground that the school, in question, is directly run by the State Government. The district of Bhabhua was carved out from the district of Rohtas, which is not in dispute. The Project Girls High School, Chand in the district of Rohtas is there, in the list of schools, said to have been opened in the years 1984-85 and being run by the State Government. The said report is

part of the report of the Three-Man Enquiry Committee, constituted under the orders of Supreme Court. For the same reason as noted above, I do not find any merit in the application.

13. The petitioner (Ravi Bhushan Singh) in C.W.J.C. No. 23272 of 2012 has challenged an order dated 26.08.2008, passed by the Director, Secondary Education, whereby, he has rejected the claim that Project Girls High School, Brahmpur, in the district of Buxar, was established by the Private Management Committee on the ground that the said school was established and being run directly by the State Government. It is the case of the petitioner that 30 decimals of land was obtained with the cooperation of the local people by way of public assistance in the year 1983 and, thereafter, temporary rooms were constructed for running the school by the Management Committee. Subsequently, when the site of the school was selected for being taken as Project Girls High School at Brahmpur under the scheme of the State Government, donors of the land had transferred the said land in favour of the State Government, whereafter, the State Government constructed a building. It is the petitioner's case that the Management Committee was constituted in the year

1983 itself, which had appointed teaching and non-teaching staff. At the same breath, the petitioner has admitted that subsequently the teaching staff, appointed in the year 1983, had left the school as they were not receiving any salary.

In the counter affidavit, the Deputy Director (Secondary Education), Department of Education, Government of Bihar, has given the list of such project school, which were directly established and run by the State Government, which includes a Project Girls High School at Brahmpur in the district of Buxar. Further, I find from the said letter dated 27.08.1993 of the Director, Secondary Education, Government of Bihar (*Supra*) that in the list of schools, established and being run by the State Government, name of Project Girls High School, Brahmpur, is there at Serial No. 74. I, therefore, find no merit in this application.

14. Similar is the case in C.W.J.C. No. 11298 of 2010, wherein, the petitioner (Praveen Kumar Mandal) is aggrieved by an order dated 26.08.2008 (Annexure-1), rejecting the claim that Project Girls High School, Falka, in the district of Katihar was established and being managed by the School Managing Committee. I find from the list of project school having been established by the State



Government, supplied by Director, Secondary Education, Government of Bihar through its letter dated 27.08.1993 addressed to the Secretary, Bihar School Examinaton Board, that in Falka block of Katihar district, the name of Project Girls High School, Falka finds place. I find, therefore, no merit in this application.

15. As would be evident from the orders, which are under challenge in all the applications as above, that both the orders, respectively, dated 26.08.2008 and 19.04.2010, have been passed by the Director (Secondary Education), Government of Bihar. A plea has been taken on behalf of the petitioners in these cases that the orders have been passed in mechanical manner and do not show any application of mind. Upon scrutiny of the orders passed by the Director (Secondary Education), Government of Bihar, which are under challenge in these present writ applications, it appears that he issued the first officer order dated 26.08.2008, in terms of the report submitted by a Three-Member Committee, constituted in the light of the Supreme Court judgment dated 09.03.2006 in case of **State of Bihar & Others Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)**. However, so that the aggrieved persons may have a right to say against the findings of the report or the



correctness of the report, a liberty was given to them to make a representation before the Director (Secondary Education), Government of Bihar. From the subsequent order dated 19.04.2010, it appears that the Director rejected the representation of these petitioners on the ground that they failed to bring any evidence before him in support of the case that the schools, where they claimed to have been appointed, were established and run by a governing body with public cooperation. Nothing has been brought on the record in these writ applications nor there is reference to any fact in these writ applications that the petitioners had produced some evidence before the Director, Secondary Education and availing the liberty granted to them in the light of earlier order dated 26.08.2008 and the Director, Secondary Education, failed to consider such evidence. I, therefore, do not find any substance in the plea that the orders under challenge need interference by this Court in a proceeding under Article 226 of the Constitution of India.

16. The report prepared by Three-Man Committee in compliance of Supreme Court decision in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)** had been produced before me by learned counsel for the parties. I



have perused the report and I find that the Committee did an exhaustive exercise to comply with the Supreme Court directive. To the said report, a letter written by the Director (Secondary Education), Government of Bihar, addressed to the Secretary, Bihar School Examination Board is annexed as Annexure-17, which contains the list of such Project Schools opened in the years 1984-85, which were being run by the State Government. Project Girls High School, Korha, Katihar and Sohani Devi Sharda Project Girls High School, Barsoi, Katihar have been shown to be the schools run by the State Government. Similarly, the Project Girls High School, Nokha in the district of Rohtas has been shown to be run by the State Government. As has been mentioned above, the petitioner of C.W.J.C. No. 10893 of 2010 has claimed that she was working in Project Girls High School, Bastaul under Pranpur police station, Katihar, whereas, the said school has been shown to be run by the State Government in his letter dated 27.08.1993, issued by the Director, Secondary Education, Government of Bihar.

17. The counter affidavits have been filed on behalf of the respondents-State of Bihar. In C.W.J.C. No. 10872 of 2010, it has been specifically stated that the Project



Girls High School, Korha, Katihar, was established by the State Government in the years 1984-85. It has further been stated that the school building was constructed by the State government and the teachers, who were appointed by Zila Parishad are posted there. The petitioner himself in the writ application has stated that the construction of the school building was made by the State Government. I do not find any substance in the submission, as there is no convincing material to show that the school was being run by a private Management Committee and was selected as a project school in terms of the policy of the State Government, as contained in Letter No. 12(C) dated 25.09.1985. In C.W.J.C. No. 10893 of 2010, the State in their counter affidavit has specifically stated that alongwith the claims and representations filed by the petitioner, she had not produced any evidence that the school in question, which was being run by the Managing Committee, had been selected by the concerned Three-Man Committee headed by the District Magistrate. It has been stated that, even the project report, which could be only supporting document for the purpose of selection of school and the approval of the services of the teaching and non-teaching staff was not produced by the petitioner before the Director, Secondary

Education. As I have noted hereinabove, it is not the petitioner's case that she had produced some documents before the Director, Secondary Education in the light of liberty granted to her, which documents were not considered.

18. I have perused the original records produced by the respondent-the State of Bihar relating to Project Girls High School, Kumhari-Kadwa (Katihar), the Project Girls High School, Brahmpur (Buxar) and Project Girls High School, Ramsahar (Bhojpur), which were produced before me by the respondents. On perusal of the records, I do not find any infirmity in the decision of the State Government, holding these schools to have been established and run by the State Government and being run by the State Government directly.

19. In view of the above, I do not find any reason to interfere with the orders which are under challenge in C.W.J.C. No. 10872 of 2010, C.W.J.C. No. 11539 of 2010, C.W.J.C. No. 20605 of 2012, C.W.J.C. No. 10893 of 2010, C.W.J.C. No. 11630 of 2012, C.W.J.C. No. 10854 of 2010, C.W.J.C. No. 11699 of 2012, C.W.J.C. No. 23272 of 2012 and C.W.J.C. No. 11298 of 2010. These applications are, accordingly, dismissed. These applications are, accordingly, dismissed.



20. In C.W.J.C. No. 15078 of 2010 (Birendra Pandey Vs. The State of Bihar & Ors.), the petitioner has challenged an order dated 22.10.2009 issued under the signature of District Education Officer, Nawada, whereby and wherein, in terms of the directions issued by the Director, Secondary Education, the petitioner has been reverted back to his so-called original taken over school, Targir of Nawada district. He has also sought for quashing of order dated 12.10.2009 (Annexure-14) to the writ application, whereby, an allegation has been made that the petitioner was running unauthorizedly Sadho Lal Sah Arya Kanya Pariyojna Ucch Vidyalaya, Akbarpur as In-Charge Headmaster and accordingly, direction was issued to the District Education Officer, Nawada to relieve the petitioner for joining in the so-called original school.

21. From the pleadings on record, it appears that the teaching and non-teaching employees, said to have been appointed by Sadho Lal Sah Arya Kanya Pariyojna Ucch Vidyalaya, Akbarpur, had represented their claim before the committee. The Committee upon due consideration had recommended the claims of the teachers for approval of their services and, accordingly, the services of three teachers, one



clerk and two peons, were approved vide Memo No. 407P dated 24.06.2008. As has been stated in the counter affidavit, the State-respondents learnt that a parallel school in the name of Project Girls High School, Akbarpur was being run by deputing the petitioner to the said school and it was in the background of those facts that the petitioner was asked to be relieved to join his actual place of posting. It has been asserted in the counter affidavit that despite the fact that the petitioner was asked to join at the place of his actual posting, after cancelling the deputation order dated 14.05.2010, the petitioner attempted to stay there. The gist of the stand of the State is that there is no school in the name of Project Girls High School, Akbarpur (Nawada) and the petitioner was wrongly been deputed in the said school.

22. I do not find any merit in this writ application filed by the petitioner for two reasons. Firstly, he does not have any right to continue as a deputationist, even if it is presumed for the time being that there was a school in the name of Project Girls High School, Akbarpur (Nawada). Secondly, there is nothing on the record to come to a finding that the said school was selected as project school by the State Government in terms of its scheme.

23. The C.W.J.C. No. 15078 of 2010 is, accordingly, dismissed.

24. The petitioners of C.W.J.C. No. 6871 of 2011, claimed to be the teachers working in Project Kanya High School, Hathua, Anchal-Hathua, District-Gopalganj. They are aggrieved by an order issued vide Memo No. 449P dated 03.09.2010, whereby, their claims of recognition of their services as teachers of project school have been rejected. The claim of petitioner nos. 1, 2 and 4 has been rejected on the ground that their names did not figure in the project report. With respect to petitioner no. 4, an additional ground has been mentioned that being an untrained teacher, he did not have the qualification for appointment as teacher. As regards petitioner no. 3, it has been mentioned in the impugned order that his services could not be recognized as he was not trained. The plea, which has been taken in the writ application assailing the impugned order that it is cryptic and general and without appreciating the facts and circumstances. According to the petitioners, claims of three of them have been rejected on hyper technical ground that their names were not available in the project report. They have, however, did not dispute the fact that names of petitioner nos. 1, 2 and 4 did not appear in



the project report, showing them to be working in the project school in question and their selection for appointment by Managing Committee of said Project Kanya High School, Hathua, Gopalganj. In the counter affidavit filed on behalf of the State-respondents, it has been stated specifically, referring to the office order dated 13.04.2010, passed by the Director Education that the school in question was, as a matter of fact, being run by the State Government and the Three-Man Committee headed by the District Magistrate had not selected the school as a project school nor any project report was received with respect to the school in question. However, upon further scrutiny of the order dated 13.04.2010, the matter was re-examined and services of the persons, who were found working against sanctioned number of posts, were recognized subsequently by an order dated 03.09.2010. The petitioners have themselves stated in the writ application that petitioner no. 3 was appointed by the Executive Committee of the Managing Committee of the school on 27.04.1989, whereas, petitioner no. 4 was appointed as an Assistant Teacher in the year 1996 with effect from 28.12.1995. In the counter affidavit, a plea has been taken that the services of the persons appointed after 04.02.1989, being the cut off date could not be



recognized. The rationale behind fixing the cut off date has been explained in the counter affidavit that for the first time, provision for approval of services made by Government Order No. 142 dated 04.02.1989, were made and five posts of teachers were sanctioned with effect from 01.01.1989.

25. It has further been stated that by an order dated 13.04.2010, the claim of teaching and non-teaching staff of the school were rejected on the recommendation of the Committee, but it was specifically mentioned in the order that if the teaching and non-teaching staff were aggrieved with the decision, they could file their representation before the Director (Secondary Education), Government of Bihar and on receipt from teaching and non-teaching staff of the school in question alongwith necessary proof. The documents were duly examined and after having found the claims for approval of teaching and non-teaching staff genuine, their services were duly approved, whereas, the claims of these petitioners were not found acceptable and were accordingly rejected by the impugned order dated 03.09.2010 .

26. From the averments made in the writ application, on their own showing, the petitioners are said to have been appointed in the year 1996 much after the cut off



date, i.e., 04.02.1989, and that must have been the reason why their names not there in the project reports. This Court in its decision dated 25.08.2014 passed in C.W.J.C. No. 15184 of 2011 (Umesh Pathak Vs. The State of Bihar) has held that a teacher appointed in a Project School after the cut off date, i.e., 04.02.1989, could not be considered for approval/recognition of his service in a Project Girls' High School. They having been appointed much after the cut off date, their names were rightly not entertained and were rejected. This being an undisputed fact that the petitioner no. 3 did not hold the qualification of teachers training for the post of Assistant Teacher, the decision of the respondents, as impugned in the present writ application does not need any interference.

27. The C.W.J.C. No. 6871 of 2011 is, accordingly, dismissed.

28. In C.W.J.C. No. 10906 of 2010, the petitioner (Radhey Shyam Kumar) is aggrieved by an order dated 21.07.2008 on the ground that he was appointed after the cut off date, i.e., 04.02.1989, on 15.03.1989. He has claimed in the writ application that though he was working in the school since prior to 04.02.1989, but the appointment letter was issued on 15.03.1989. In the absence of any appointment



letter, in my opinion, the petitioner did not have any contract of appointment to work as an Assistant Teacher in Project Girls High School, Paliganj, Patna. I do not find any merit in the claim that though the petitioner was working prior to 04.02.1989; the appointment letter was issued on 15.03.1989.

I do not find any concrete material on the basis of which, the Three-Man Committee would have taken any decision in favour of the petitioner. The petitioner's contention that he was working on oral instructions of the authorities in the school as Assistant Teacher prior to 04.02.1989, cannot be accepted in the present proceeding under Article 226 of the Constitution of India. I do not find any merit in this application. **The C.W.J.C. No. 10906 of 2010 is, accordingly, dismissed.**

29. The cases of C.W.J.C. No. 4174 of 2011, C.W.J.C. No. 12420 of 2009, C.W.J.C. No. 19321 of 2010 and C.W.J.C. No. 12417 of 2010 relate to such claims of the respective petitioners for recognition of their services as teaching/non-teaching employee in Project Girls High School, whose claims have been rejected on the ground that they were appointed against such, posts which were not available.

30. Before I deal with these cases, I must indicate

that the Full Bench of this Court in case of **Project Uchha Vidyalaya Shikshak Sangh (Supra)**, referring to earlier Government Circular No. 705 dated 12.10.1982, specifically held that for Second Phase Project Schools also, sanctioned strength of teaching staff shall be the same, i.e., nine. There can also not be any dispute that following is the break up of subject wise posts of teachers in a project school:-

(A) Assistant Teachers:

- (i) Humanities: Number of posts - 3 (History, Geography and Civics each).
- (ii) Science: Number of posts - 3 (Physics, Math and Biology each).
- (iii) Language: Number of posts - 3 (Hindi, English and Sanskrit each).

And following is the distribution of post sanctioned for non-teaching employees:-

(B) Non-teaching employees:

- (i) Clerk: Number of post - 1.
- (ii) Orderly: Number of posts - 2.

31. In C.W.J.C. No. 4174 of 2011, there is a dispute between the petitioner and respondent no. 6, both of whom claim to have been appointed on the respective dates of their



appointments as they claimed against post of Assistant Teacher in Sanskrit in Shiva Project Girls High School, Khizasarai, Gaya. The petitioner has challenged the order dated 07.05.2010 passed under the orders of the State Government refusing to accept his claim of recognition of his service in the said project school. From the facts pleaded, it appears that the service of private respondent no. 6 has been recognized as an Assistant Teacher in Sanskrit in the said project school.

32. It is the petitioner's claim that he was appointed as Assistant Teacher in Sanskrit on 06.02.1984 and has asserted that respondent no. 6 was appointed as Assistant Teacher in history subject on 10.02.1984, though she did not have the requisite qualification for the post of Assistant Teacher in History. It has been stated in the writ application that respondent no. 6 had the qualification of Up-Shashtri which was not the requisite qualification for the post of Assistant Teacher in Sanskrit subject. A counter affidavit has been filed on behalf of the respondent no. 6, stating therein that she was appointed as teacher against the subject of Sanskrit on 21.02.1984 and the petitioner wrongly mentioned in the writ application that she was appointed on 10.02.1984. The petitioner has brought on the record his appointment letter by



way of Annexure-2 in which, he is shown to have been appointed on 06.02.1984, whereas, respondent no. 6 has annexed a photocopy of the appointment letter of the petitioner in order to contend that the petitioner was appointed on 21.02.1984. It is the case of respondent no. 6 that there was a *bona fide* mistake committed by the authorities showing the petitioner's date of appointment as 06.02.1984. Since it is disputed question of fact as to who was appointed at the earlier point of time against the post of Sanskrit, in the fitness of the thing, I consider it appropriate to direct the Director, Secondary Education, Government of Bihar, to resolve the dispute afresh as to who was appointed as Assistant Teacher first, after giving the petitioner and respondent no. 6 an opportunity to place their cases. He will be required to give the petitioner and respondent no. 6 an opportunity of personal hearing. The petitioner and respondent no. 6 will be required to produce their relevant documents in their support before the Director, Secondary Education, Government of Bihar. The Director, on the basis of assessment and evaluation of the evidence/documents produced by the petitioner and respondent no. 6, shall take a final decision and will be required to pass an order afresh accordingly within a period of three months from the date of

receipt/production of a copy of this judgment.

33. The C.W.J.C. No. 4174 of 2011, thus, stands disposed of.

34. The petitioner of C.W.J.C. No. 12420 of 2009 has sought for a direction to the respondents to allow her to work as Peon in the Project Girls High School, Anandpur Sahora, Darbhanga. She has claimed that she had been appointed on the post of Peon in the Project Girls High School, Anandpur, Sahora, Darbhanga vide letter dated 22.10.1983, in support of which, she has filed the Letter No. 15 dated 22.10.1983. A counter affidavit has been filed on behalf of the respondent no. 5-the Principal, Project Girls High School, Anandpur, Sohra, Darbhanga, stating therein that against two posts of Class-IV employees, i.e., Peon in the concerned school, the petitioner was the 4th person to be appointed by the Managing Committee. The two persons, namely, Arjun Jha, the husband of the present petitioner, was appointed against the first post and one Ramdeo Yadav has been appointed against the second post. Thereafter, one Mahesh Jha has been appointed by the Managing Committee against the post which did not exist. The petitioner was yet, thereafter, appointed by the Managing Committee against the post which did not exist.



It, however, appears that by Office Order No. 363P dated 24.06.2008, on the basis of a report submitted by the Three-Member Committee; the State Government has given recognition to service of the petitioner. The respondent no. 5, on the other hand, has stated in Paragraph No. 8 of the counter affidavit that the petitioner has never attended the school to render her duty before recognition of her service vide Memo No. 363P dated 24.06.2008. I consider it appropriate to quote the statement made in Paragraph No. 8 of the counter affidavit, which reads thus:-

“8. That with regard to statement made in paras no.3(A) to (O) it is humbly submitted that the writ petitioner never attended the school to render her duties before regularization of service vide memo no. 363P dated 24.6.08 which is under protest and trial before the Director, Secondary Education, Government of Bihar Respondent no.2 and the Director called all concerned persons for hearing on 15.12.2008 in his office and the petitioner Lal Dai Devi is also one of them and the order is still pending.”

35. In reply to the counter affidavit, on the other hand, the petitioner has stated that respondent no. 5 has raised a

frivolous plea that one Ramdeo Yadav was appointed against second post. She has brought on record the copy of the Letter No. 150(P) dated 20.04.2010, to contend that the service of said Ramdeo Yadav, as Peon, has finally not been recognized.

36. This is surprising to note that on the one hand respondent no. 5 in her counter affidavit has taken a plea that the petitioner was appointed against the post which was not available and one Ramdeo Yadav was appointed against available second post. On the other hand, the Three-Member Committee, on basis of the report, recognized the service of the petitioner and refused to accept service of said Ramdeo Yadav. This is to be noted that said Ramdeo Yadav has also filed a writ application, bearing C.W.J.C. No. 19321 of 2010, seeking quashing of the said Office Order No. 150(P) dated 20.04.2010 as well as Office Order No. 616(P) dated 22.07.2008, whereby, his claim for approval of his service has been rejected. By another office order, as contained in Memo No. 363(P) dated 24.06.2008, the service of respondent no. 6 has, however, been approved against the post of Peon in the said Project Girls High School, Anandpur, Darbhanga. The petitioner, Ramdeo Yadav, has brought on record by way of supplementary affidavit (Annexure-15), an office order dated 17.01.2011, whereby, the



approval granted earlier in favour of the petitioner, namely, Laldai Devi, of C.W.J.C. No. 12420 of 2009, has been cancelled. In the counter affidavit filed by the respondents-State of Bihar, it has been stated, based on the report submitted by the Headmistress of the school, that a show cause notice was issued to the petitioner (Laldai Devi), pursuant to which, she had represented before the Director, Secondary Education and upon finding that two sanctioned posts of Peon had already been filled up, approval of her service earlier granted came to be cancelled vide memo dated 17.01.2011.

37. During the pendency of the writ application, the petitioner of C.W.J.C. No. 19321 of 2010, namely, Ramdeo Rai, died. Thereafter, an application for substitution vide Interlocutory Application No. 3223 of 2013 has been filed for expunging the name of the original petitioner and substituting the names of his heirs/legal representatives, as described in Paragraph No. 2 of the said interlocutory application. There is no objection to such substitution prayer.

38. Accordingly, Interlocutory Application No. 3223 of 2013 stands allowed. Let the name of deceased petitioner, namely, Ramdeo Yadav, be expunged from the cause title of the writ application and the names of his heirs/legal representatives,

as described in Paragraph No. 2 of the interlocutory application, be substituted.

39. A second supplementary has been filed on behalf of the petitioner, seeking a direction to the respondents to consider the case of approval of service of deceased Ramdeo Yadav as Class-IV employee of the concerned Project School, Anandpur, Darbhanga with effect from 01.01.1989 and after approving such service, the respondents may be directed to pay to the heirs/legal representatives of the petitioner, the arrears of salary which the deceased petitioner had been entitled to, had he been alive. This is to be noted that Office Order No. 18P dated 17.01.2011, cancelling approval of service of petitioner of C.W.J.C. No. 12420 of 2009, Laldai Devi, has not been challenged. I am, therefore, of the opinion that in the facts and circumstances of the case, the claim of the petitioner of C.W.J.C. No. 12420 of 2009 no more survives.

40. The C.W.J.C. No. 12420 of 2009 is, accordingly, dismissed.

41. So far as C.W.J.C No. 19321 of 2010 is concerned, I direct the Director, Secondary Education, Government of Bihar, to consider afresh the case of grant of approval of service of late Ramdeo Yadav and consider



payment of arrears of salary to the family of the deceased Ramdeo Yadav, if his service is finally found worth being approved. Learned counsel appearing on behalf of the petitioner in C.W.J.C. No. 19321 of 2010 has rightly relied upon an order of this Court dated 24.02.2012 passed in C.W.J.C. No. 18598 of 2011, wherein, this Court has directed the respondents to settle the dues of a deceased teacher of a Project Girls High School. The Director, Secondary Education, Government of Bihar, is directed to take a final decision in this regard within a period of three months from the date of receipt/production of a copy of this judgment.

42. The C.W.J.C. No. 19321 of 2010, thus, stands disposed of.

43. The petitioner of C.W.J.C. No. 12417 of 2010 claims to have been appointed as Assistant Teacher on 26.02.1985 by the then Managing Committee of the school. She is aggrieved by an order dated 21.07.2008 issued by the Director, Secondary Education, Government of Bihar, which is based on the report of Three-Member Committee, whereby, her service as Teacher has not be recognized for Project Girls High School, Paliganj, Patna, on the ground of non-availability of post. Aggrieved by the said order dated 21.07.2008, the



petitioner had preferred representation which also came to be rejected. It is the petitioner's claim that she was appointed for the subject Hindi in the said project school on 26.02.1985. She has asserted in her writ application that for the said Project Girls High School, against 9 sanctioned posts, the services of six teachers have been approved by Order No. 453 dated 24.06.2008. My attention has been drawn to another Office Order No. 70(P) dated 29.03.2010, to submit that the service of one Ayasha Khatoon has been recognized for the post of Urdu teacher. In that background, it is her case that one post is still vacant in the school against which her service should have been recognized.

44. I do not find any merit in this case. From her own showing, the service of one Neelam Kumari, appointed on 21.03.1983 as Assistant Teacher in the concerned Project Girls High School, Paliganj, Patna in subject Hindi, has been recognized. Under the scheme of appointment of Assistant Teachers, two persons could not be appointed to teach Hindi in one school. The petitioner has brought on record an order of this Court dated 04.05.2010 passed in C.W.J.C. No. 3522 of 1995 (Madan Prasad Gupta Vs. The State of Bihar & Ors.) and has submitted that her case is squarely covered by said order



of this Court dated 04.05.2010. I am not able to accept the contention as total strength of teachers in a school is not relevant consideration for the purpose of grant of approval of service of a teacher or non-teaching employee. The appointments could have been made within sanctioned strength for different subjects, as indicated above; three posts were provided one each in English, Hindi and Sanskrit. I am of the view that only one Hindi teacher could be appointed in a Project Girls High School and the authorities rightly refused the petitioner's claim as second post for a Hindi teacher was not available in the said school on the date of her appointment.

45. The C.W.J.C. No. 12417 of 2010 is, accordingly, dismissed.

46. The petitioners of C.W.J.C. No. 11513 of 2010 and C.W.J.C. No. 11611 of 2010 are aggrieved by order dated 22.7.2008, whereby the impugned decision of the Respondent-State of Bihar, their services as teachers of Project Girls High School has been rejected on the ground that they were untrained. There is no dispute over the fact that the petitioners are untrained. There is no material on record nor any provisions have been pointed out by the learned counsel representing the petitioners that the requirement of

qualification of teachers training could be relaxed. This aspect was considered by the Full Bench in case of **Project Uchcha Vidyalaya Shikshak Sangh (Supra)**, wherein the Court held in Paragraphs - 24 and 25 as follows:-

“24. In some of the cases before us, the petitioners have been refused recognition/regularization of their services on the ground that they did not possess the requisite training qualification of B.Ed. (Bachelor in Education) though they had the certificates of B.T. (Basic Trained). Learned counsel for the petitioners contended that circular No. 142 dated 4th February, 1989, only stipulates trained graduate as the minimum qualification. It does not specify any certificate that the State Government has also recognized B. T. equivalent to B. Ed for appointment of teachers in non-Government High School or nationalized schools. Therefore, candidates having B. T. certificates should also be treated as “trained graduate”. In this regard, our attention was drawn to a letter of the Secretary, Human Resources Development Department, dated 18th April, 1996, contained in Annexure-16/A to the supplementary affidavit dated 25th February, 1999, filed in CWJC No. 1224, to show that B. T. certificates are



treated equivalent to B.Ed and Dip-in-Ed for the purpose of appointment of teachers in Non-Government High Schools or nationalized schools. It was thus contended that respondents are not justified in denying recognition/regularization of the services of such teachers on the ground that they had not passed the B.Ed examination.

25. From the aforesaid letters of the Secretary, Human Resources Development Department, it would appear that for the purpose of appointment in a Non-Government High School, B.T certificates are treated at par with B.Ed. qualification. But in absence of any such circular with respect to the present appointment or admission in the counter affidavit on behalf of the State. I do not feel inclined to hold that certificates of B. T. are at par with B.Ed qualification. Any person having passed matriculation examination may appear at the B.T. examination conducted by the Secondary School Examination Board and can get a certificate in this regard whereas a person is not entitled to get a degree of B. Ed unless he or she had passed the Graduation examination. It has been noticed that the expression “trained graduate” is very well understood for a candidate



having Bachelor's degree in the subject of education in addition to Bachelor's degree in Arts or science or Commerce etc. That part, a certificate of B. T. as noticed above, is granted by the Secondary School Examination Board, whereas the degree of B.Ed is granted by University. But however, I may clarify that in spite of the aforesaid views of mine, it will be open to the authorities of the State Government to consider whether a B.T. certificate can be equated to that of "B.Ed qualification" or "qualification of Dip-in-Ed".

47. The Full Bench of this Court did not relax the said requirement of teachers training and left it to the State Government to consider whether "B.T certificate" can be equated to that of "B.Ed qualification" or equivalent of "Dip-in-Ed". The three men Committee constituted under the orders of the Supreme Court also came to the conclusion that services of such teachers having no qualification of teachers training could not be recognized. Even in the writ applications, I do not find any reason assigned by the petitioners as to how the order issued vide memo No. 610 P dated 22.7.2008 passed by the Director, Secondary Education, Bihar Patna which is under

challenge in both the writ applications, is illegal or erroneous.

48. I do not find any merit in C.W.J.C. No. 11513 of 2010 and C.W.J.C. No. 11611 of 2010. These applications are accordingly, dismissed.

49. The petitioner of C.W.J.C. No. 12336 of 2010 was found to be continuously absent from the School i.e. Vijay Smarak Project Girl's High School, Alamnagar and for that reasons his service has not been recognized by order dated 22.7.2008 based on report of the three men Enquiry Committee and subsequently by order dated 11.4.2010 passed by the Director, Secondary Education, Government of Bihar, Patna upon a representation filed by the petitioner against the order dated 22.7.2008. It has been asserted by the petitioner in the writ application that he had been continuously working in the school and accordingly, recommendation was made by the School for recognition of her service as teacher of the said Project School. He has brought on record certain documents to show that she was found working in the school in question in course of inspection conducted by the inspector of School on 25.9.1998.

50. The petitioner has also brought on record the Attendance Register in support of his plea that he had been



working in the School. Unfortunately, no counter affidavit has been filed in this case on behalf of the State Respondents. In such circumstance, I have no other option but to remand the petitioner's case back to the Director, Secondary Education, Government of Bihar to consider the petitioner's case afresh. The order dated 11.4.2010 (Annexure-7) is accordingly quashed with a direction that the petitioner's case will be required to be considered afresh and the respondent Director, Secondary Education, Government of Bihar, will be required to pass order within three months from the date of receipt/production of a copy of this order. The petitioner will be at liberty to bring to the notice of the Director, Secondary Education, Bihar, Patna all such facts on the basis of which he can establish that he had been working in the school continuously. **C.W.J.C. No. 12336 of 2010 is disposed of accordingly.**

51. The case of petitioner of C.W.J.C. No. 12111 of 2010 has been rejected by the Director, Secondary Education, Government of Bihar, Patna by his impugned order dated 26.4.2010 on the ground that petitioner's name did not figure in the Project report submitted by the School. By an earlier order dated 21.7.2008 his claim was rejected for the



same reason on the basis of the report of three men enquiry Committee against which he had represented before the Director, Secondary Education, Govt. of Bihar, Patna whereafter, the order dated 26.4.2010, finally rejecting the petitioner's claim, came to be passed.

52. It has been asserted in the writ application that though he had been continuously working in the Project Girls High School, Dhanarua and was appointed as co-examiner by the Bihar School Examination Board to evaluate the matriculation examination papers, the Secretary of the School made demand for illegal payment of Rs. 60,000/- and after denial by the petitioner, with the help of henchmen he stopped the petitioner from marking his attendance and working in the school, on the ground that he had been terminated. It has been asserted that the petitioner has filed several representations from 1996 to 2003 but nothing was done. Thereafter, the Full Bench judgment of this Court was delivered, which went up to the Supreme Court and in the light of the decision of the Supreme Court, the cases of teachers in Project Schools for recognition of their services were considered. The petitioner's case was wrongly not sent along with the project report. He has also questioned the jurisdiction of the Secretary of the

School to terminate his service.

53. Though the allegations of *mala fide* has been made against the then Secretary of the School, he has not been impleaded as party respondent in the present writ application. The entire case of the petitioner is based on the alleged *mala fide* against the then Secretary.

54. The petitioner has filed a supplementary affidavit stating therein that in other cases also, though the name was not sent in the project report, service of a teacher, namely, Raj Kumari Devi of Choudhary Ram Prasad Sharma Project Girls High School, Pandarak was recognized by office order dated 24.6.2008. He has also stated that the then Director, Secondary Education, Bihar, namely Bhrigunath Upadhyay had heard one of the representations filed by the petitioners in Chambers and thereafter he passed the order granting recognition of the service of the petitioner along with others but copy of the order was never communicated to the petitioner. It is his claim that upon filing an application under the right to Information Act, he received the said order by a letter issued by the Information Officer, Bihar, Secondary School office, Government of Bihar, a copy of which has been brought on record by way of Annexure-12 to a supplementary

affidavit filed by him.

55. Counter affidavit and supplementary counter affidavit have been filed by the respondents State of Bihar. In the supplementary counter affidavit, it has been stated that the name of the petitioner was not reported in the project report, among working teachers in the school in question. Referring to the instance of Raj Kumari Devi, it has been stated in the supplementary counter affidavit that upon a complaint having been received against her, the matter of granting recognition of service of said Srimati Raj Kumari Devi was again considered and approval of her services was subsequently cancelled vide memo no. 48 dated 4.2.2011. In reply to the statement made in the supplementary affidavit filed by the petitioner that his case was subsequently considered by the then Director, elaborately, it has been stated in the supplementary counter affidavit that few days before his retirement, the then Director had submitted 18 files enclosing his decision in the matters of teaching and non teaching staffs of the Project School of the year 1984-1985. On receipt of the aforesaid files, the matter was fully examined by the Principal Secretary of the Department, during which it was revealed that the then Director had prepared the orders in deviation of the accepted



norms decided by the Cabinet and it was detected that he had signed the orders without even getting the approval of the Government. Such orders signed by the then Director, Secondary Education were found to be illegal and accordingly, cancelled. It was in this background that the Government had ordered not to include the orders signed by the then Director, in the official records. On the basis of his own saying of the petitioner, it is easily noticeable that the petitioner was not working in the school at least, since 1996 for any reason whatsoever. There is also no dispute about the fact that his name was not included in the project report submitted by the School, which was subsequently transmitted through proper channel to the department for recognition of service of the teachers and staff of the said school.

56. I do not find any reason to interfere with the impugned decision of the respondents in exercising power of judicial review in the facts and circumstances as noted above. The manner in which the petitioner has claimed and orders said to have been passed in his favour by the then Director creates serious doubt. There was no reason for the Director to have passed an order recognizing the service of the petitioner when his name did not figure in the project report and there

was no other basis before him, for coming to the said decision.

57. The C.W.J.C. No. 12111 of 2010 is dismissed, accordingly.

58. The petitioners of C.W.J.C. No. 19560 of 2010 are aggrieved by an order dated 27.10.2010 passed by the Director, Secondary Education, Government of Bihar, Patna (Annexure-1), whereby their claim that Lakhan Devi Mathura Girls High School, Sirdala, Nawada is a Project Girls High School has been rejected and it has been held that the said school is a private school.

59. It is the claim of the petitioners that the said school was established in the year 1980 with the assistance of the local public and in the year 1986, through a registered deed of gift, land of 3 acres and 31 decimal was transferred in the name of the school and a building was accordingly, constructed on the said land. According to them, a Managing Committee was constituted which had been running the school. The petitioners were appointed as Assistant Teachers and non teaching staffs on various dates between 1982 to 1987. It has further been asserted that the District Level Three Men Committee had decided to select the school in question as a Project School and subsequently the District Magistrate,



Nawada vide its letter dated 5.1.1990 had communicated to the State Government that the School in question had been selected as a Project School. It has further been stated that the Secretary of the School pursuant to the direction of the District Education Officer, had submitted the Project report which was subsequently, forwarded by the Additional Director of Education, Patna. It is also their claim that the students of the Schools have regularly been appearing in the matriculation examination conducted by the Bihar School Examination Board by tagging the school with a Nationalized School and the teachers of the School are being appointed as co-examiner to evaluate answer book of the matriculation examination.

60. The petitioners have also brought on record a letter dated 30.6.1990 written by the Deputy Director, Secondary Education addressed to the Secretary, Bihar School Examination Board mentioning the name of the school in question along with other schools which was described to be a project Girls High School. It has further been asserted that the Bihar Education Project, Nawada is providing dress to the students of the school and even cycles were provided to the students under the scheme of the State Government in order to establish their case that it is a project school. The order



impugned has been passed by the Director, Secondary Education, Government of Bihar, Patna in compliance of an order of this Court dated 25.6.2010 passed in CWJC No. 10740 of 2002 (Rita Kumari Vs. State of Bihar & ors). So far these petitioners are concerned, they appear not to have preferred any representation or filed any writ applications prior to the filing of the present writ application in the year 2010. The petitioner of said CWJC No. 10740 of 2001 dated 25.6.2010 is not a petitioner in the present writ application. This by itself creates serious doubt over the claim of the petitioners that the school in which they claimed to have been appointed as teaching and non-teaching staff was a Project Girls High School. Secondly, from the impugned orders it appears that the Director, Secondary Education while passing the impugned order has noticed that there was no prior permission granted by the competent authority for establishment of the school, which fact has not been disputed. He has further recorded in his order, on the basis of available records that by an order issued vide Memo no. 669 dated 12.8.2008, the department had rejected an application seeking permission to establish the school. He has specifically come to the conclusion that the school in question was a private



school and it was illegal and against the policy of the State Government to engage teachers of such schools for evaluation work by the Bihar School Examination Board or to provide funds for dress and cycles for students of such schools. He has recommended action against such irregularity having the effect of misused and misappropriation of the Government fund. He had held school to be a privately run school.

61. A supplementary affidavit has been filed on behalf of the petitioners bringing on record a Government letter dated 10.6.2006 (Annexure-17) to the supplementary affidavit issued by the Department of Bihar, whereby it was decided that the requirement of prior permission for establishment of the Project Schools as a condition for recognizing the services of teaching and non-teaching staff stood repealed which aspect was ignored by the Director. He has also relied upon few letters dated 24.6.2008 where some other schools have been recognized as Project Schools under the scheme, despite action of prior permission for establishment of the School.

62. Counter affidavit on behalf of the respondents has been filed stating in paragraph 9 that the claim of the petitioners' school for grant of permission for



establishment was rejected earlier also vide department letter no. 417 dated 25.1.2000, and information was given to the District Education Officer, Nawada for communicating to the Secretary of the proposed Lakhan Devi Mathura Girls High School, Sirdala, Nawada that permission for establishment of the school was not possible. However, the authorities of the school in collusion with the Field Officer succeeded in getting their students appeared in matriculation examination and illegally managed to get dress and cycle for the girl students. It has also been stated that a departmental action has been proposed against the then District Education Officer, Nawada, being part of the irregularity committed by him.

63. In one of the affidavits filed on behalf of the respondents-State of Bihar, it is stated that as a matter of fact, Sridala Block of Nawada District was not selected as one of the 300 blocks where Project Girls High School were required to be established under R.L.E.P.G scheme in terms of letter No. 12C dated 25.01.1985 (**Supra**). It has been stated that the said school is not covered by the Full Bench decision of this Court and the Supreme Court judgment.

64. I find substance in the stand taken on behalf of respondents-State of Bihar, apparently Sridala block was

not selected as one of the blocks in the letter dated 25.1.1985 (supra) issued by the Education Department, Government of Bihar where Girls School was required to be established under the R.L.E.P.G. Scheme.

65. I do not find any merit in this application and C.W.J.C. No. 19560 of 2010 is, accordingly, rejected.

66. The C.W.J.C. No. 21970 of 2012, C.W.J.C. No. 9178 of 2012 and C.W.J.C. No. 21974 of 2012 relate to claim of the petitioners where their services have been recognized by the State Government in the light of the report of Three-Man Committee, but their grievance is that the effective dates of recognition of their services have been wrongly fixed and they have claimed that their services should have been recognized with effect from the date of their respective appointments and the arrears of salary etc. should have been paid with effect from 01.01.1989.

67. The dispute arises out of creation of posts in a project school. As has been noted hereinabove, initially when the scheme of establishment of Project Schools came in the year 1981-82, 9 posts of Assistant Teachers were sanctioned in each project school on the basis of which, appointments were made and services of teachers in Project



Schools of first phase were recognized. However, in second phase of establishment of Project Girls High Schools in Blocks, the strength was reduced to five as can be seen from Letter No. 142 dated 04.02.1989 (Supra). The Full Bench of this Court in case of **Project Uchcha Vidyalaya Shikshak Sangh (Supra)** did not approve of such reduction and held that it was an unreasonable attempt to reduce the posts by subsequent decision. The Full Bench, accordingly, held that the sanctioned strength should have been same, i.e., 9 in each project school. The Supreme Court, in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)** has vividly discussed the dispute relating to sanctioned strength in Project Girls High School and took into account subsequent State Government decision that the State Government had sanctioned 4 additional posts in such schools with retrospective effect. I consider it appropriate to extract Paragraph Nos. 57 to 61 of the said decision of Supreme Court, in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)** which are as follows:-

["57. We have noticed that there is no dispute that in the years 1982-83 and 1983-84, no school was recognized or established. We have also noticed hereinbefore that one of the conditions for

recognition was that the teachers were required to be appointed by the Vidyalaya Sewa Board. In the aforementioned context, the letter dated 4-2-1989 is required to be considered for the purpose of this case.

58. Whereas in respect of the schools established by the State, 9 posts were sanctioned; for the schools which were selected for recognition/taken over through the agency of the three-man committee, only 5 posts were sanctioned. It has not been disputed that in the High Schools in question, students are taught from Classes VI to X i.e. five classes. It has also not been disputed that every subject has been categorised in three groups viz. language groups, humanity group and science group and other teachers were to be appointed accordingly.

59. The State is no doubt entitled to lay down qualification or sanction the requisite number of posts. It may also in certain situations provide for relaxation therefrom or lay down such terms and conditions as they may deem fit and proper. It is also permissible for the State to appoint a Screening Committee for the purpose of finding out whether the teachers satisfy the requirements laid down therein. The State is also entitled to fix the age-limit of such teachers. How many teachers were required to be appointed and the strength of the teaching staff and the



non-teaching staff again is a matter of policy decision of the State. Indisputably, if somebody has any say in this behalf it will be the Bihar Senior School Education Board, a statutory authority which is statutorily enjoined to lay down the criteria for the purpose of recognition of the said schools by it. But for all intent and purport this issue has become academic. In view of the fact that the State itself has realised the difficulty which the schools would face if only 5 posts are sanctioned in each school, the Cabinet itself realised that like any school run by the Government, it is necessary to have at least 9 teachers even in the Project Schools. The strength of the teachers for such schools has not only been sanctioned, sanction therefor was given with retrospective effect and retroactive operation. Necessary funds were allocated for the said purpose. Although, thus, it was the prerogative of the State to lay down the criteria, the same has been laid down. Therefore, correctness or otherwise of the finding of the High Court that the State was bound to recognise at least 9 teachers in each school, for all intent and purport is now academic.

60. It is furthermore not in dispute that the State for the first time in its letter dated 4-2-1989 laid down the qualifications for the teachers as also the strength thereof.

61. The validity and/or legality of



the said government order dated 4-2-1989 was questioned before the High Court. The High Court, as noticed supra, set aside the said directions holding that 9 teachers were required to be appointed in each of the schools. This part of the order of the High Court does not require elaborate consideration as the State Government had now sanctioned 4 additional posts with retrospective effect.”]

68. From the observations of Supreme Court, as noted above, there remains no doubt that 4 additional posts were sanctioned with retrospective effect and not with effect from the date when such posts were sanctioned. This is not in dispute that in the light of the observations made by Full Bench of this Court, Secondary, Primary and Adult Education Department, Government of Bihar vide its Letter No. 56 dated 25.06.2000, sanctioned 4 additional posts for teachers in the present schools established in second phase. From the order impugned dated 24.06.2008 (Annexure-7), it is evident that the service of the petitioner (Shwetambar Jha) came to be recognized on the basis of his appointment made on 22.09.1981 in the subject Sanskrit. It has, however, been mentioned in the said office order dated 24.06.2008 that decision for payment of the salary with effect from 01.01.1989



or 25.01.2000 or from the date of acquisition of training qualification will be taken after the services of such teaching and non-teaching employees are found to be continuous and in such circumstance, the arrears will be paid in five equal annual instalments. The petitioner was, though appointed in the year 1981, has been treated to have been appointed against 5th post as he was untrained because in the reasoning of the Director, Secondary Education, the petitioner was found to have been appointed against a post which came to be sanctioned by virtue of the Office Order No. 56 dated 25.01.2000, his service has been recognized with effect from 25.01.2000. In my view, the Director, Secondary Education, while passing the office order dated 18.09.2012, did not take into account the fact that the additional 4 posts of second phase were sanctioned by Office Order No. 56 dated 25.01.2000 with retrospective effect which fact has been taken note of by Supreme Court in Paragraph No. 61 of the decision in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)**. In my opinion, the order issued by the Director (Secondary Education) Bihar, Patna dated 18.09.2012, recognized the service of the petitioner with effect from 25.01.2000 based on erroneous consideration without taking into account the true import of Office Order



No. 56 dated 25.01.2000, by which 4 additional posts were sanctioned with retrospective effect, which has been taken note of in Paragraph No. 62 of the Supreme Court decision in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)**. The impugned order dated 18.09.2012 (Annexure-8) is, accordingly, quashed. The Director, Secondary Education, is directed to reconsider the case of the petitioner of C.W.J.C. No. 21970 of 2012 (Shwetambar Jha) treating the post against which he was appointed to have been sanctioned with retrospective effect and consider his case for grant of recognition of his service and payment of salary accordingly with effect from 01.01.1989. Final decision in this regard must be taken within three months from the date of receipt/production of a copy of this judgment.

69. The C.W.J.C. No. 21970 of 2012 is, accordingly, allowed.

70. The issue involved in C.W.J.C. No. 9178 of 2012 (Sabita Rani) is similar to case of petitioner of C.W.J.C. No. 21970 of 2012, wherein, the petitioner has assailed the order dated 27.01.2011 (Annexure-9) passed by the Director (Secondary Education), Bihar Patna, whereby, the service of the petitioner has been recognized with effect from 25.01.2000



for the purpose of payment of salary etc., for the reason, which has been assigned in the impugned order, that the petitioner was appointed on a post which was subsequently sanctioned by Office Order No. 56 dated 25.01.2000. For the same reason, as discussed above, in case of Shwetambar Jha (C.W.J.C. No. 21970 of 2012), the order dated 27.01.2011 cannot be sustained and is, accordingly, quashed. **The C.W.J.C. No. 9178 of 2012 is allowed** with a direction to consider the petitioner's case for grant of arrears of salary etc. treating the post sanctioned through order dated 25.01.2000, to have been sanctioned with retrospective effect in the light of Paragraph No. 62 of the Supreme Court decision, as quoted above, as well as in the light of the observations of Full Bench of this Court. Such decision must be taken within a period of three months from the date of receipt/production of a copy of this judgment.

71. The petitioner of C.W.J.C. No. 21974 of 2012 (Gopi Raman Jha) is aggrieved by an order issued vide Memo No. 593P dated 09.10.2012, under the signature of Director (Secondary Education), Bihar, Patna, whereby, his claim for recognition of his service with effect from date of selection/taking over of the school and payment of salary in



graduate trained pay-scale with effect from 01.01.1989 has been rejected. He has sought for a direction to allow him graduate trained pay-scale with effect from 01.01.1989. He has claimed that since he holds the qualification of Acharya, he is entitled for graduate trained pay-scale with effect from 01.01.1989. Paragraph No. 28 of the Full Bench decision of this Court in case of **Project Uchcha Vidyalaya, Shikshak Sangh (Supra)** is relevant for addressing the dispute which is being quoted hereinbelow:-

["28. The next group of cases in this batch are where some of the petitioners have been refused regularisation on the ground that they did not possess the Graduation degree as commonly understood like B.A. or B.Sc. from a recognized University, but had possessed other degrees like "Shiksha Shastri", "Acharya" or "Fazil" etc. It was contended that admittedly for appointment of Assistant teachers in the nationalised schools, qualification of "Shiksha Shastri" "Acharya" or "Fazil" etc. is being treated at par with those of trained graduates. A reference was also made to a resolution and also certain letters of the Government of Bihar whereby it was decided that teachers having certificates of "Acharya" and "Fazil" were equated with that of the trained graduates for the purpose of scale



etc. As would appear from the aforesaid letters, teachers having degree of “Acharya” and “Fazil” etc. are entitled for the trained Graduate scale and other pecuniary benefits in the nationalised High School. But no material was brought to our notice to show that similar benefit was extended to the teachers having degree of “Shiksha Shastri”, “Acharya” or “Fazil” of the Project Schools or that they are also entitled for the same pay scale, which has been provided for the trained Graduate teachers, nor there was any such provision either in circular no. 705, dated 12th October, 1982, or circular no. 142, dated 4th February, 1989. However, having regard that such benefits have now been extended to the teachers of nationalised schools, it would be necessary for the authorities to examine this aspect, whether or not the teachers having “Shiksha Shastri”, “Acharya” or “Fazil” etc. may be treated at par with the trained graduates for the purpose of recognition/regularisation of their services in the Project Schools.”]

72. Apparently, whether the teachers having qualification of *Acharya* were to be treated to be at par with trained graduate teachers for the purpose of recognition/regularization of their services for project school was left upon to the State Government. In the light of the



Supreme Court decision in case of **State of Bihar & Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)**, the Three-Man Committee, constituted to examine the disputes, in its report recommended that the claims of the teachers appointed in the subject Sanskrit with *Acharya* qualification should be accepted. Paragraph Nos. 5 and 6 of the said report are relevant from which it will appear that the Three-Man Committee considered an earlier decision of the State Government as contained in Letter No. 6066 dated 24.11.1986, where the persons with *Acharya* and *Fazil* qualification were placed in the category of graduate trained teachers. The State Government, though, recognized the service of the petitioner, but by the impugned order refused to give him the pay-scale of graduate trained teacher. In my opinion, to get the pay-scale of a trained teacher, a person must have the qualification of training. Howsoever, high degree a teacher may hold, qualification of training in teaching is a must in order to claim that pay-scale. No material has been brought to my notice on the basis of which it can be said that the petitioner was entitled for the pay-scale of a trained teacher.

73. In such circumstance, I am not inclined to accept the plea in this case that the petitioner is entitled for



graduate trained teacher pay-scale on the basis of his *Acharya* qualification. Certain instances has been cited by learned counsel for the petitioner with reference to his representation dated 25.05.2012 (Annexure-22) in order to submit that certain other persons having *Acharya* qualification have been granted pay-scale of trained graduate teachers. I need not comment upon that except that till date, nothing has been brought to my notice on the basis of which it can be said that *Acharya* qualification is equivalent to qualification of graduate trained teacher for the purpose of grant of trained scale.

74. I do not find any substance in the submission made on behalf of the petitioner that since, vide Government Notification No. 300 dated 01.06.1999, cadre of school teachers has merged with the nationalized high school teachers and *Acharya* qualification is treated to be equivalent to graduate trained qualification in nationalized schools and, therefore, the petitioner should be given graduate trained teachers pay-scale with effect from the date of recognition of his service in the present school.

75. The C.W.J.C. No. 21974 of 2012 is dismissed, accordingly, as I do not find any merit in the plea raised by the petitioner. It is, however, observed that there

should be no discrimination in the matter of fixation of pay of the teachers, appointed in Project Schools, *vis-a-vis*, the nationalized schools after teaching cadre of the two kinds of schools, came to be merged with effect from 01.06.1999, if they possess same qualification and discharge same duties.

76. The C.W.J.C. No. 21974 of 2012 is, accordingly, dismissed but with the observation as above.

77. The C.W.J.C. No. 3038 of 2011, C.W.J.C. No. 15901 of 2012, C.W.J.C. No. 13406 of 2010 and C.W.J.C. No. 17348 of 2012 relate to such cases where the claim of the petitioners have been rejected on the ground that they were overage on the date of their appointment. Before I deal with the merits of these cases, I must refer the relevant portion of Paragraph No. 22 of the Full Bench decision of this Court in case of **Project Uchcha Vidyalaya Shikshak Sangh (Supra)**, which is as follows:-

["22. Therefore, although the relevant circular of the State Government, whereby the maximum age was relaxed to 35 years for the teaching and non-teaching staff of the Non-Government Secondary Schools, is not applicable to the teaching and non-teaching employees of the Project Schools as already held above but having regard to the facts that they have continued



uninterruptedly for several years, it would be in fact too hard to reject their claim at such a belated stage simply because some of them had crossed the age of 31 years at the time of initial appointment by the Managing Committee before the take over of the schools as Project School. I am, therefore, of the view that in the background of the facts stated above, such petitioners are also entitled for the regularisation/recognition of their services against the post within the aforementioned staffing pattern.”]

78. The said decision of the Full Bench of this Court has not been altered by the Supreme Court. In such circumstances, rejection of the claim of such persons on the ground that they were overage on the respective dates of their appointments cannot be said to be inconformity with the Full Bench decision of this Court, as quoted hereinabove.

79. Therefore, order issued vide Memo No. 165 dated 20.04.2010 (Annexure-4) in C.W.J.C. No. 3038 of 2011 (Md. Muslim Hussain & Anr. Vs. The State of Bihar & Ors.), order issued vide Memo No. 206(P) dated 05.05.2010 (Annexure-5) impugned in C.W.J.C. No. 15901 of 2012 (Ram Naresh Singh Vs. The State of Bihar & Ors.), order issued vide Memo No. 610(P) dated 22.07.2008 (Annexure-1) and



subsequent order issued vide Memo No. 123(P) dated 19.04.2010 (Annexure1/A) impugned in C.W.J.C. No. 13406 of 2010 (Surendra Kumar Vs. The State of Bihar & Ors.) and the order issued vide Memo No. 189(P) dated 28.05.2012 (Annexure-1) impugned in C.W.J.C. No. 17348 of 2012 (Kamal Nayan Sharma Vs. The State of Bihar & Ors.), are hereby quashed.

80. The respondents-Director, Secondary Education, Govt. of Bihar, is directed to pass an order afresh on the claims of the petitioners, keeping in light the Full Bench decision of this Court on this point quoted hereinabove. It will be left upon him to examine whether the services of the respective petitioners deserve to be recognized in the subject concerned and whether they held requisite qualification for such recognition/approval of their service. In no case, the Director will reject their claims on the ground that they were overage on the respective dates of their appointments. Such decision must be taken within a period three months from the date of receipt/production of a copy of this judgment. If the petitioners are found otherwise eligible for recognition of their services, the Director will pass an order accordingly, including as regards payment of arrears of salary etc. It is indicated, as has



already been held hereinabove, that he shall keep in mind the factual position which has been taken note of by Supreme Court in case of **State of Bihar and Ors. Vs. Project Uchcha Vidya, Sikshak Sangh (Supra)** that the additional 4 posts for second phase of Project Schools were sanctioned by subsequent Government Notification but with retrospective effect.

81. The C.W.J.C. No. 3038 of 2011, C.W.J.C. No. 15901 of 2012, C.W.J.C. No. 13406 of 2010 and C.W.J.C. No. 17348 of 2012 are, accordingly, allowed.

82. The issue raised in C.W.J.C. No. 7133 of 2012 (Project Balika Uchcha Vidyalaya, Thathopur & Ors. Vs. The State of Bihar & Ors.) is peculiar of its kind and raises disputed question of fact which cannot be gone into by this Court in a present proceeding under Article 226 of the Constitution of India. The petition has been filed in representative capacity seeking quashing of the order dated 05.03.2010 passed in the light of orders of this Court, respectively, dated 17.01.2008 and 11.08.2008 in C.W.J.C. No. 2161 of 2000, which was preferred earlier by the petitioners. The petitioners have sought for regularization of their services as teaching and non-teaching staff of the Project Girls High School. They assert that the said Balika Uchcha



Vidyalaya, Thathopur, Prakhand-Baheri, District-Darbhanga was established in the year 1984 in terms of the policy of the State Government to establish Project Girls High School in each Block. According to them, the said Project High School was one among the 75 schools established by the State Government and the State Government had sanctioned amount also for construction of school buildings. As per their case, the said school is not covered by the Full Bench decision of this Court or the Supreme Court judgment. According to them, in terms of Letter No. 142 dated 04.02.1989, the District Education Officer had submitted a project report in respect of the school in prescribed formant which was duly signed by the Secretary of the Managing Committee and the District Education Officer. They assert that the Screening Committee constituted for the purpose of scrutinizing the present report, considered the case of the petitioners and made necessary recommendations for regularization on 06.04.1991. However, the recommendations were not forwarded and kept pending. They, thereafter, filed writ application, bearing C.W.J.C. No. 8587 of 1991 which came to be disposed of by an order dated 09.12.1991 with a direction to the respondents to place the matter before the Screening Committee for consideration in



terms of provisions of letter dated 04.02.1989. In order to consider the said recommendation, a surprise check was conducted and found that there was no teaching and non-teaching staff appointed by the governing body and, as a matter of fact, the school was working on paper only and accordingly, the Screening Committee declined to make recommendation. It is their case that the said unit of school, which was meant for Darbhanga district in Baheri Prakhand was transferred to the district of Bhabhua (Kaimur) as per notification dated 21.07.1995.

83. It appears that a Public Interest Litigation (PIL) was also filed, bearing C.W.J.C. No. 2882 of 2000, for restoration of school in Thathopur, Prakhand-Baheri and District-Darbhangha. The said writ petition was disposed of on 27.07.2006. Pursuant to orders dated 17.01.2008 and 11.08.2008 passed in C.W.J.C. No. 2161 of 2000, the Principal Secretary, Human Resources Development Department passed an order mentioning, specifically, that the Three-Man Committee constituted under the Chairmanship of the District Magistrate of the concerned district had approved of such school nor any project school was functioning in the concerned village after the said unit was transferred to the

district of Bhabhua (Kaimur).

84. The petitioner has brought on record a subsequent order dated 24.06.2011, from which it appears that it is true that the Project Girls High School sanctioned for the Village-Thathopur in the district of Darbhanga was shifted to another district of Bhabhua (Kaimur) in Chainpur Prakhand and one Radhakrishna Uchcha Vidyalaya, Chitadhi was selected for that purpose. The State Government appears to have reconsidered the decision and have decided by the said order dated 24.06.2011 to shift the entire unit of project school, i.e., Chitadhi of Chainpur Prakhand in the district of Bhabhua (Kaimur) to Village-Thathopur in Baheri Block of Darbhanga district. In view of the decision dated 24.06.2011, the grievance of the petitioners for restoration of the project school unit in the Village-Thathopur stands redressed. It is nowhere claimed in the writ application that the petitioners were working as teacher in said school and, therefore, no question arises issuing direction for regularization of services of the teachers in the school, which is now functioning in the Village-Thathopur in the district of Darbhanga in terms of the decision of the State Government dated 24.06.2011. It has been stated that petitioner no. 3, namely, Amar Nath Singh,



has filed a representation before the Director, Secondary Education, Human Resources Development Department, Government of Bihar, seeking regularization of the services of the employees of the said project school in Village-Thatthapur. This Court directs the Director, Secondary Education to consider the said representation dated 08.09.2011 (Annexure-9) and taking a decision within a period of three months from the date of receipt/production of a copy of this judgment.

85. The C.W.J.C. No. 7133 of 2012 is, accordingly, disposed of.

86. The C.W.J.C. No. 13159 of 2013 and C.W.J.C. No. 13104 of 2013 are cases where the claims of the respective petitioners for recognition of their service as a teacher in project school have been refused on the ground that there was no post sanctioned/available for physical trained teachers under the staffing pattern.

87. The petitioner in C.W.J.C. No. 13159 of 2013 (Maheshwar Prasad Singh) has claimed in the writ application that he was appointed as Science teacher in the Project Girls High School, Barachatti, Gaya and he had qualification of physical trained teacher. From Paragraph No. 20 of the report of the Three-Man Committee, constituted



under the orders of Supreme Court, I find that the Committee approved the claims of such teachers having training in physical education, whose appointments were made in the schools against post as a teacher in the subjects mentioned in Letter No. 705 dated 12.10.1982. In my opinion in such circumstance, the respondents were required to consider whether the petitioner was appointed as a Science teacher as per the staffing pattern. If it is found that his appointment was against sanctioned strength of Science teachers (3), the petitioner's claim will be required to be reconsidered.

88. The impugned order dated 05.05.2010 (Annexure-3), to the extent it relates to the petitioner, namely, Maheshwar Prasad Singh, is set aside. The Director, Secondary Education, Government of Bihar is directed to consider the case of the petitioner afresh taking into account the fact as to whether his appointment as Science teacher in the school was against sanctioned strength or not.

89. Similar is the case with the petitioner of C.W.J.C. No. 13104 of 2013 (Kriti Kumar), wherein, by the impugned order dated 07.05.2010 (Annexure-8), his claim has been rejected on the ground that under the staffing pattern, there was no post sanctioned for physical trained teacher. The

petitioner has claimed that he was appointed as teacher in Science with the subject Biology by the Managing Committee of Gayatri Girls High School, Kawakol (Nawada).

90. The impugned order issued vide Memo No. 230(P) dated 07.05.2010 (Annexure-8), to the extent it relates to petitioner, namely, Kriti Kumar, cannot be sustained for the same reason as above and is, accordingly, set aside. The case of this petitioner is also remitted back to the Director, Secondary Education, Government of Bihar to consider his case as to whether his appointment was made against sanctioned strength of Science teacher in the concerned Gayatri Girls High School, Kawakol (Nawada) and pass an order afresh. The decision in this regard must be taken within a period of three months from the date of receipt/production of a copy of this judgment.

91. The C.W.J.C. No. 13159 of 2013 and C.W.J.C. No. 13104 of 2013 are, accordingly, allowed.

92. The C.W.J.C. No. 12890 of 2011 (Nagendra Kumar v. the State of Bihar & Ors), C.W.J.C. No. 11695 of 2012 (Brajendra Kumar Roy v. the State of Bihar & Ors), C.W.J.C. No. 5111 of 2008 (Smt. Pramila Kumari v. the State of Bihar & Ors), C.W.J.C. No. 14635 of 2011 (Brij Nandan



Rai v. the State of Bihar & Ors) and C.W.J.C. No. 21009 of 2012 (Smt. Geeta Kumari v. the State of Bihar & Ors) are such matters where the petitioners have claimed the status of Headmaster/ Headmistress on the ground that they were founder Incharge Headmasters of the Project Schools in question. Their plea is based on a Supreme Court decision in case of “**A. K. Pradhan v. the State of Bihar & Ors.**” reported in “**1998 (1) PLJR (SC) 2**” and their claim that the cadre of Headmaster/ Headmistress of Project Schools merged with the cadre of Headmaster/ Headmistress in the nationalized schools with the framing of “**Bihar Rajya Madhyamik and Pariyojna Vidyalaya Ekikrit (Seva Shart Niyamavali), 1999**”. It is their claim that they were working as In-charge Headmaster/ Headmistress in the concerned Project Schools and, therefore, upon merger of the cadre of teachers and Headmasters of nationalized schools and Project Schools the rules which were applicable in case of teaching and non teaching employees of the State Government became applicable in case of the petitioners also. Consequently, it is their plea that treating them at par with the teachers of nationalized secondary schools, they should also be treated as Headmaster/ Headmistress.

93. Identical question, as to whether the persons who had worked as In-charge Headmaster/ Headmistress in Project Schools, should be treated to be Headmasters and teachers of nationalized schools is involved in all these cases.

94. C.W.J.C. No. 12890 of 2011 has been treated to be the lead case for the purpose of adjudication of the issue involved.

95. The petitioner in C.W.J.C. No. 12890 of 2011 claims that he was appointed as Assistant Teacher in Project School, Makdumpur under district of Jehanabad by the managing committee and he was authorized to work as Incharge Headmaster of the school. Appointment letter was issued to him on 30.12.1980. He had qualification of B. A. and he had passed B. Ed. Examination on 06.04.1982. He cleared Postgraduate degree in October, 2006. It is his case that ever since the foundation of the school was laid; he functioned as In-charge Headmaster of the said school.

96. Shorn of unnecessary details, as pleaded in the writ application, the petitioner has claimed that his service as an Assistant Teacher in the Project School was recognized by the State Government vide an office order dated 06.12.1996 (annexure-5) passed by the Director, Secondary



Education, Government of Bihar. This fact is not in dispute. He has, thus, claimed that he worked as founder In-charge Headmasters of the school. This is also not in dispute that upon completion of 12 years of service as Graduate Trained Teacher, the petitioner has been given senior pay scale and his pay has been fixed as Rs. 20,240/- with effect from 01.01.2006. The petitioner has relied upon a letter dated 12.10.1982 issued by the Education Commissioner, Government of Bihar addressed to the Director, Secondary Education, Government of Bihar which deals with establishment of four Project Schools including one Project Girls High School in each block of the State. Paragraph 1 of the said letter envisages that from the point of view of management, such Project Schools will be in the category of taken over/ nationalized schools. The petitioner then relies upon letter dated 20.11. 1981 conveying the decision of the State Government to the Director, Secondary Education, Government of Bihar relating to appointment of working founder Headmasters of nationalized schools against vacant posts of Headmasters. The said letter deals with appointment of founder Headmasters in such nationalized schools, who were working as such as on 02.08.1980, and qualification of

founder Headmasters to be appointed as Headmasters in the nationalized schools.

97. As has been noted above, by framing of Rules, notified vide Government notification No. 300 dated 01.06.1994, cadre of Headmasters, teachers and non teaching staff of the Project Schools merged with the cadre of Headmasters, teachers and non teaching staff of nationalized schools. It is, accordingly, the case of the petitioner that after merger of the cadre, the teachers of Project Schools are to be governed by Bihar Taken Over/Nationalized Secondary Schools (Service Condition) Rules, 1983 (**hereinafter referred to as the “Rules of 1983”**) and relying upon the Government circular dated 20.11.1981 (**Supra**), the petitioner claims that, he being founder Headmaster, should be regularized as Headmaster of the school.

98. The petitioner has placed reliance upon the Supreme Court decision in the case of **“A. K. Pradhan v. the State of Bihar & Ors.”** reported in **“1998 (1) PLJR SC 2”** in support of his plea that since the petitioner has completed seven years of service, he should be treated as Headmaster of the school. Paragraphs 2, 3, 4 and 5 of the said decision are relevant and are being quoted hereinbelow:-



“2. It is pointed out by the learned counsel appearing on behalf of the State of Bihar that the Full Bench decision has since been upheld by this court in Ram Ballabh Prasad Singh v. State of Bihar [1998 PLJR SC 70] by the following order:

“We affirm the view taken by the High Court to the effect that a Headmaster has no right to be automatically absorbed as government servant in case of an unrecognized school being taken over by the Government. The special leave petitions are dismissed with these observations.

We are told by the learned counsel that even if the petitioners are liable to be screened by the appropriate committee there should be no delay in completing the screening insofar as the petitioners are concerned. We have no doubt that when these observations are pointed out to the appropriate authority the committee concerned will deal with the matter expeditiously and dispose the same in accordance with law”.

3. The controversy, therefore, that the services of the employees working in an unrecognized institution are not automatically taken over by the Government, is to be treated as settled by the order passed

in the above petition.

4. The fact, however, remains that the appellant has since completed more than seven years of service and is now eligible and for being considered for regularization.

5. We, therefore, dispose of this appeal with the observation that the appellant, if not already regularized as Headmaster, shall be considered for regularization w.e.f. the date on which he completed seven years of service reckoned from the date on which the institution was taken over by the Government. There will be no order as to costs."

99. The petitioner had earlier approached this court by filing C.W.J.C. No. 6323 of 1999 seeking absorption/regularization on the post of Headmaster. The said writ application was disposed of by an order of this court dated 25.05.2007 with the following order:-

"Accordingly, I direct the Director, Secondary Education, Human Resources Development Department, Government of Bihar, Patna (respondent No.2) to consider the case of the writ petitioners for their appointment/ regularization to the post of Headmaster/ Headmistress in the concerned Projects Schools, in accordance

with law. Such consideration should be made by respondent No.2 within a period of four months from the date of receipt/production of the certified copy of this order.

The writ application is, accordingly, disposed of.

Before I part with this order, it appears that in this case one intervention application has been filed, vide Interlocutory Application No. 4874 of 2006, claiming similar relief.

The concerned intervenors are at liberty to make representation before respondent No.2 for considering their cases in the light of the decision of the Hon'ble Supreme Court in the case of A. K. Pradhan v. State of Bihar (supra) and respondent No.2 may take appropriate decision in the matter expeditiously, preferably within a period of four months.

100. In the light of order of this court, the petitioners of that case including this petitioner and others appears to have approached the Director, Secondary Education, Human Resources Department, Government of Bihar. The Director, however, by an order dated 18.03.2011 rejected the claim of the petitioner and others assigning the



reason that the Supreme Court decision in the case of **A. K. Pradhan (Supra)** was not applicable for the teachers of Project Schools. In the impugned order dated 18.03.2011 the Director pointed out that there was no provision for recognizing the services of founder Headmasters in the Project Schools on the basis of appointment made by the managing committee, unlike nationalized schools. From his own statement made by the petitioner in the writ application it appears that a gradation list for promotion on the post of Headmasters has been prepared and published by the department in accordance with the Rules of 1983 (**Supra**), in which the petitioner's name figures at Serial No. 4435.

101. A counter affidavit has been filed on behalf of the respondents- the State of Bihar stating therein that there was specific provision regarding approval of founder Headmasters in the Government order Nos. 511 dated 20.11.1981, 1072 dated 09.11.1987 and 129 dated 30.11.1981. It has also been stated that as per the previous rules and circulars of Project Schools, the petitioner can be considered for promotion to the post of Headmaster along with teachers of nationalized schools on the basis of State level gradation list prepared for the said purpose. It has further been stated that



upon amalgamation of service condition of teachers and non teaching staff of Project Schools with the cadre of teaching and non teaching of nationalized schools, the teachers of Project Schools can be directly recruited or promoted to the post of Headmasters from the State level gradation list. In order to distinguish the case of founder Headmasters of nationalized schools, it has been stated that they were such schools which were being established and run by the local public after fulfillment of conditions as prescribed in Bihar Non Government Secondary School (Taken over of Management and Control) Act, 1981. Such schools were recognized and taken over on 02.10.1980. On the other hand, the Project Schools were established and run by the Government under project scheme which was established during financial year 1981-82 and 1984-85.

102. Mr. Ram Sagar Singh, learned counsel for the petitioner, has submitted that upon merger of the cadre of teachers and non teaching employees of nationalized schools with that of Project Schools, they have to be treated at par with each other. He has submitted, referring to the letter dated 12.10.1982 of the State Government (**Supra**) that Project Schools were to be treated similar to nationalized schools. He



has, therefore, submitted that the decision of the State Government as contained in letter dated 20.11.1987 (Annexure-10) should also be made applicable to such teachers of Project Schools, who were appointed as founder Headmasters in the Project Schools and they should be absorbed as Headmasters.

103. I do not find any merit in the submission made on behalf of the petitioner that he having been appointed as founder In-charge Headmasters by the Managing Committee in the Project School, his services should be treated to be absorbed/recognized as Headmaster with effect from 01.01.1989. It is thoroughly misplaced submission that Project Schools were to be treated as nationalized schools with reference to letter dated 12.10.1982 (Annexure-8). It simply mentions that for the purpose of management only the Project Schools will be in the category of nationalized schools. This was only for administrative purpose as to how the State Government would exercise control over such schools. It never intended to mean that service condition of teaching and non teaching employees of the Project Schools and nationalized schools will be the same. Equally misplaced is the submission that the letter dated 20.11.1981 of the State



Government, whereby, a decision was taken to appoint founder In-charge Headmasters of taken over schools as Headmasters, if they fulfilled the requisite conditions mentioned in the said letter, should be made applicable in case of the teachers who were working as In-charge Headmasters in Project Schools, on the ground that teachers of Project Schools also came to be governed subsequently by Rules of 1983 (**Supra**) upon merger of cadre by 1999 Rules.

104. This is for the two reasons. Firstly, the letter dated 20.11.1981 was issued before framing of Rules of 1983 (**Supra**) and the petitioner, therefore, by invoking provisions of 1983 Rules cannot claim a benefit on the basis of a circular issued prior to coming into force of Rules of 1983 (**Supra**), which dealt with In-charge Headmasters of nationalized schools. Secondly, the said letter dated 20.11.1981 referred to such nationalized schools which were approved up to 02.10.1980 and founder Headmasters were found to be working on 02.10.1980. The services of the petitioner as teacher of a Project School was recognized in the light of the scheme of the State Government to establish schools as contained in letter No. 1115 dated 27.05.1981 and subsequently letter issued vide memo No. 30 dated



22.01.1982. Clause IV (Kha) of the letter dated 22.01.1982 issued by the State Government required that Headmasters will be appointed in such schools by the department, though direction was made for appointment of In-charge Headmasters by the District Education Officer on the recommendation of Regional Deputy Director of Education, considering the qualification and utility of a teacher. There was no provision for appointment of Headmaster/ Headmistress of a Project School by the Managing Committee. In my opinion, the private management could not have appointed any person on the post of Headmaster. In my opinion, therefore, the service condition of the petitioner will be governed by Rules of 1983 (Supra) and will be entitled for promotion/appointment as Headmaster in terms of Rule 4 of 1983 Rules.

105. For the reasons, as noted above, I do not find any merit in writ applications, i.e., C.W.J.C. No. 12890 of 2011, C.W.J.C. No. 11695 of 2012, C.W.J.C. No. 5111 of 2008, C.W.J.C. No. 14635 of 2011 and C.W.J.C. No. 21009 of 2012. These writ applications are also dismissed.

106. In the result, C.W.J.C. No. 10872 of 2010, C.W.J.C. No. 11539 of 2010, C.W.J.C. No. 20605 of 2012, C.W.J.C. No. 10893 of 2010, C.W.J.C. No. 11630 of 2012,



C.W.J.C. No. 10854 of 2010, C.W.J.C. No. 11699 of 2012, C.W.J.C. No. 23272 of 2012, C.W.J.C. No. 11298 of 2010 (Paragraph - 19), C.W.J.C. No. 15078 of 2010 (Paragraph - 23), C.W.J.C. No. 6871 of 2011 (Paragraph - 27), C.W.J.C. No. 10906 of 2010 (Paragraph - 28), C.W.J.C. No. 12420 of 2009 (Paragraph - 40), C.W.J.C. No. 12417 of 2010 (Paragraph - 45), C.W.J.C. No. 11513 of 2010, C.W.J.C. No. 11611 of 2010 (Paragraph - 48), C.W.J.C. No. 12111 of 2010 (Paragraph - 57), C.W.J.C. No. 19560 of 2010 (Paragraph - 65), C.W.J.C. No. 21974 of 2012 (Paragraph - 76), C.W.J.C. No. 12890 of 2011, C.W.J.C. No. 11695 of 2012, C.W.J.C. No. 5111 of 2008, C.W.J.C. No. 14635 of 2011 and C.W.J.C. No. 21009 of 2012 (Paragraph - 105), are dismissed.

107. So far as C.W.J.C. No. 4174 of 2011 (Paragraph - 33), C.W.J.C. No. 19321 of 2010 (Paragraph - 42), C.W.J.C. No. 12336 of 2010 (Para - 50), C.W.J.C. No. 7133 of 2012 (Paragraph - 85), are concerned, the same are disposed of.

108. With regard to C.W.J.C. No. 21970 of 2012 (Paragraph - 69), C.W.J.C. No. 9178 of 2012 (Paragraph - 70), C.W.J.C. No. 3038 of 2011, C.W.J.C. No. 15901 of 2012, C.W.J.C. No. 13406 of 2010, C.W.J.C. No. 17348 of 2012 (Paragraph - 81), C.W.J.C. No. 13159 of 2013 and C.W.J.C.

No. 13104 of 2013 (**Paragraph - 91**), the same are allowed.

109. Let original records be returned to learned counsel for the State of Bihar.

110. Interlocutory Applications, if any, stand disposed of.

111. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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