

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.552 of 2016
arising out of
Civil Writ Jurisdiction Case No. 14217 of 2015**

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1. Sanjay Kumar, S/o Lakhandeo Rai, R/o Vill. - Simri, P.O. Keshopur, P.S. Sarara, Distt. - Muzaffarpur
 2. Akhilesh Prasad Sinha, S/o Birendra Narayan Sinha, R/o vill. - Belsand, P.O. Belsandi, P.S. Chakmehsi, Distt. - Samastipur

.... Appellant/s

Versus

1. The State of Bihar through its Secretary Govt. of Bihar, New Secretariat, Patna
2. The Director (Primary Education) Education Department Govt. of Bihar, New Secretariat Patna
3. The Regional Deputy Director of Education Tirhute Division, Muzaffarpur
4. The District Education officer, Muzaffarpur
5. The District Programme officer (Establishment), Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Shashi Bhushan Kumar, Advocate
For the State : Mr. Raj Ballabh Pd. Yadav, AAG-11
Mr. Dinesh Maharaj, Advocate

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 22-12-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 11.02.2016 whereby the writ application was dismissed where the challenge was to the communication dated 25th of June, 2015 finding that the appointment of appellants is not in accordance with the Bihar Elementary School Teachers Appointment Rules, 1991 (hereinafter referred to as the "Rules").



The brief facts leading to the present appeal are that appellant no.1 was appointed in the year 1993 whereas appellant no.2 was appointed in the year 1998, as Assistant Teachers in the basic schools in the category of Matric untrained teachers. The appellants rely upon the circular dated 23rd of June, 1990 as also the circular dated 08.08.1991 to contend that the candidates who have been appointed on compassionate ground are not required to undergo the training. Still further, the appellants claim to have completed training in the year 1995 but the examination was not conducted by the State. The appellants were earlier granted Matric trained teachers pay-scale w.e.f. 05.09.1999 to 30.09.2003 notionally and substantially w.e.f. 01.10.2003. But, the said order was withdrawn, without giving any opportunity of hearing to the appellants, on 25th June, 2015 on the ground that as per 1991 Rules, the appellants are not entitled to trained teachers pay-scale.

Admittedly, no opportunity of hearing was granted to the appellants when the trained teacher pay-scale was sought to be withdrawn from the appellants. Any order passed without granting opportunity of hearing affects the civil rights of a person and cannot be sustained.

Consequently, we deem it appropriate to set aside the order dated 11.02.2016 passed by the learned Single Bench and also



the order dated 25.06.2015 (Annexure 1) and direct the competent authority to pass a fresh order after giving an opportunity of hearing to the appellants and after considering the stand of the appellants in accordance with law.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

Ashwini/Amrendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10/01/2017
Transmission Date	NA

