

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6753 of 2013

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1. Shanti Kumari, daughter of Jagdeo Rai, resident of Village - Rajapakar, Police Station - Rajapakar, Distt. - Vaishali
 2. Shivpujan Rai, Son of Gulab Rai, resident of Village - Rajapakar, Police Station - Rajapakar, Distt. - Vaishali
 3. Fakira Prasad Singh, Son of Late Jagdeshwar Rai, Resident of Village- Rajapakar, Police Station - Rajapakar, Distt. - Vaishali
 4. Bajrangi Singh, Son of Late Dipan Singh, Resident of Village- Arari, P.S. Sarai, Distt. - Vaishali
 5. Parmanand Singh, Son of Late Brahmdeo Singh, resident of Village - Rushupur Pasti, P.S. Mahua, Distt. - Vaishali
 6. Yadu Nandan Singh, Son of Late Gulabchand Singh, R/O Village - Parsonia, P.S.- Mahua, Distt.- Vaishali
 7. Makhtar Singh, Son of Maithur Singh, Resident of Village - Rajapakar, Police Station - Rajapakar, Distt. - Vaishali
 8. Ramjee Singh, Son of Ram Parishchhan Singh, resident of Village- Chakthakurasi, P.S. Biddu Pur, District - Vaishali
 9. Chandradeo Rai, Son of Late Fudani Rai, R/O Village - Salempur Nandlalpur, P.S. Lalganj, Distt. - Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The Principal Secretary, Human Resources Department, Government of Bihar, Patna
4. The Director, Primary Education, Human Resources Department, Govt. of Bihar, Patna
5. The District Education Officer, Vaishali
6. The District Programme Officer, Establishment Vaishali Distt. - Vaishali

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh, Advocate
: Mr. Gyanendra Kumar Sukla, Advocate
For the Respondent/s : Mr. Avanish Nandan Sinha, G.P. 11

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 14-01-2016

Heard learned counsel for the petitioner and the State.

2. The petitioners seek quashing of the order dated

28.02.2013 passed by the District Education Officer, Vaishali

whereby the appointment of the petitioners on the post of Assistant Teachers in the district of Vaishali have been cancelled.

3. The petitioners submit that they were among the list of 34540 recommended candidates, which was approved by the Hon'ble Apex Court and as such any interference with the same was impermissible. They have also drawn my attention to the order of the Hon'ble Apex Court passed in SLP (Civil) No. 26824 of 2012, at Annexure-18 to the second supplementary affidavit (at page 104) particularly para 9. The relevant paragraph is quoted herein below for easy reference:

“9. Be that as it may, in the event, some discrepancies had crept in the final select list, the individual grievances contained various anomalies, which it is difficult for us to unravel. Accordingly, we modify our order dated 13th October, 2011, and allow the applicants to approach the High Court for redressal of their grievances. We also direct that the applications, special leave petitions and writ petitions filed before us be treated as withdrawn, with liberty to the parties to approach the High Court individually or otherwise, for relief, if any, but without, in any way, affecting the appointments of those teachers who have already been appointed against the vacant 34,540 posts and are working. We have been informed during the hearing that about 2413 posts out of the 34,540 posts were still



left to be filled up. All the applications, Special Leave Petitions and Writ Petitions are, therefore, disposed of in the light of the aforesaid observations. We make it clear that none of the persons appointed out of the 34,540 vacancies should be disturbed in any way, but the question of filling up the balance vacancies may be taken into consideration, while disposing of the applications in question.”

4. A learned Single Judge of this Court in case of Kanti Kumari Vs. The State of Bihar & Ors, disposed of on 15.01.2014 vide C.W.J.C. No. 17899 of 2012 (Annexure- 24 to the supplementary affidavit at page 168) and a Division Bench in L.P.A. No. 149 of 2014 arising out of C.W.J.C. No.1491 of 2014 took the same stand, following the observations of the Hon’ble Apex Court.

5. The respondents have filed counter affidavit. In para. 6 of the counter affidavit they state that recognition of Arya Primary Teachers Training College, Chhatwara, Mahua, Vaishali from which the petitioners have obtained their B.T. certificates, was already cancelled by the State Government vide letter no. 951, dated 28.11.1990. The letter cancelling the recognition was given wide publication through Press communiqué, dated 08.01.1994. Learned

counsel for the State placing reliance on Annexure-9 submits that the appointments of the petitioners were provisional, and subject to direction of the Court.

6. The respondents have not disputed that the petitioners' figured in the list of 34540 Elementary Teachers, which was approved by the Hon'ble Apex Court on the recommendation of the Bihar Staff Selection Commission (hereinafter referred to as 'the Commission'). It was for the Commission to have done their job carefully, and had it been a little more vigilant, the present situation could have averted. As the Hon'ble Apex Court in clear terms have restrained any Court from interfering with the appointment, it is difficult for the Court to approve any executive action in breach of the direction of the Hon'ble Apex Court.

7. In the result, the impugned order cancelling the appointment of the petitioners is set aside. The writ application stands allowed.

(Samarendra Pratap Singh, J.)

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