

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12933 of 2016

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1. Anil Kumar Tiwary son of Sri Niwas Tiwari, resident of Village- Bishunpura, P.O.- Bampali, P.S.- Udwantnagar, District- Bhojpur.
 2. Arun Kumar Singh son of Ajay Singh resident of Muhalla- Vishnu Nagar Bazar Samittee, P.S.- Ara Nawada, District- Bhojpur.
 3. Manoj Kumar Tiwary son of Bharath Tiwary resident of Village- Navadih, P.O.- Katariya, P.S.- Dawath, District- Rohtas (Sasaram).
 4. Sanjay Kumar Singh son of Ramashray Prasad resident of Village- Bihiya Gaon, P.S.- Bihiya, District- Bhojpur.
 5. Shaha Bir Kumar Yadav son of Kailash Yadav resident of Village- Chanda, P.O.- Gajrajganj, P.S.- Ara Muffasil, District- Bhojpur.
 6. Ashok Kumar son of Jamuna Ram resident of Village- Anantpur, P.O.- Berath, P.S.- Chouri, District- Bhojpur.
 7. Rajendra Pandit son of Dhanki Pandit resident of Village- Kolodihari, P.S.- Chouri, District- Bhojpur.
 8. Birendra Kumar Prasad son of Ram Bahadur Prasad resident of Village- Purvi Nawada, P.O.+P.S.- Ara Nawada, District- Bhojpur.
 9. Ashwani Kumar son of Mahendra Singh resident of Village+ P.O.+ P.S.- Jagdishpur, District- Bhojpur.
 10. Omkar Nath son of Late Krishna Murari Prasad resident of Muhalla- Mahadeva Road, P.S.- Ara Town, District- Bhojpur.
 11. Dhanji Singh son of Nand Kishore Singh resident of Village- Ramnath Tola, P.O.- Devchanda, P.S.- Piro, District- Bhojpur.
 12. Amiy Bhushan Kumar son of Narbdeswar Pandey resident of Village- Bararh, P.O.- Malaur, P.S.- Charpokhari, District- Bhojpur.
 13. Sanjeet Kumar son of S.N. Maiar resident of Muhalla- Katira Ara, P.S.- Ara Nawada, District- Bhojpur.
 14. Prabhash Kumar son of Gaya Singh resident of Village- Morjapur, P.O.+P.S.- Dawath, District- Rohtas.
 15. Suneeta wife of Vimal Kumar Mehta resident of Village- Harpur, P.S.- Itarhi, District- Buxar.
 16. Krishnanand Kumar son of Sidheswar Nath Prasad resident of Village- Ibrahim Nagar, P.S.- Ara Town, District- Bhojpur.
 17. Geeta Kumari daughter of Mod Narayan Pandey resident of Village+ P.O.- Baghi, P.S.- Sahar, District- Bhojpur.
 18. Kusumlata Kumari daughter of Pawan Kumar Pandey resident of Village+ Post- Baghi, P.S.- Sahar, District- Bhojpur.
 19. Archana Srivastava wife of Satish Kumar Biru, resident of Muhalla- Maharaja Hata, P.S.- Ara Nawada, District- Bhojpur.
 20. Sunil Kumar son of Rajendra Prasad Singh resident of Village + P.O.- Danwar, P.S.- Kachchhawan, District- Rohtas.
 21. Kamendra Singh son of Triloki Singh resident of Village- Dharupur, P.S.- Bikramganj, District- Rohtas.
 22. Pappu Kumar son of Meghnath Prasad, resident of Village- Dhansoi, P.S.- Itarhi, District- Buxar.
 23. Nirmal Kumar Ram son of Munshi Ram resident of Village+ P.O.- Ekauna, P.S.- Simri, District- Buxar.
 24. Rajeev Kumar Choudhary son of Rajendra Choudhary resident of Village- Indrapura, P.O.- Sonapur, P.S.- Udwantnagar, District- Bhojpur.
 25. Anil Kumar Giri son of Rameshwar Giri resident of Village + P.S.-

Dawath, District- Rohtas.

26. Shashi Prabha Kumari daughter of Ram Ekbal Singh resident of Village- Matiyara, P.O.+P.S.- Koelwar, District- Bhojpur.

27. Anil Kumar son of Sachchidanand Singh resident of Village+P.O.- Bimawan, P.S.- Jagdishpur, District- Bhojpur.

28. Dhananjay Kumar son of Baban Singh, resident of Muhalla- Maharaja Hata, P.S.- Ara Nawada, District- Bhojpur.

29. Chandan Kumar son of Mangal Prasad Singh resident of Village- Dumaraon Tola, P.O.- Tenduni, P.S.- Dhangai, District- Bhojpur.

30. Santosh Kumar son of Ramdeo Singh resident of Village+ Post- Atimi, P.S.- Nawanagar, District- Buxar.

31. Permanand Singh son of Ramayan Singh, resident of Village- New Colony, Saheb Tola Bihiya, P.S.- Bihiya, District- Bhojpur.

.... Petitioners

Versus

1. The State of Bihar.

2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.

3. The Secretary, General Administration Department, Govt. of Bihar, Patna.

4. The Joint Secretary, Education Department, Government of Bihar, Patna.

5. The Director (Primary Education) Education Department, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Kamal Nayan Choubey, Sr.Adv.
Mr. Maya Shankar Mishra, Adv.

For the Respondent/s : Mr. Madav Prasad Yadav,GP23

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL ORDER

4 27-09-2016 Writ has been filed by these petitioners for a direction upon the respondents State authorities to fill up the post of Primary Teachers in the State of Bihar since there are large number of vacancies prevailing and there is an obligation upon the State to fill them up.

In the counter affidavit the State has taken a stand as under:

"13. That further with regard to the vacancy status of teachers in Primary Schools at Panchayat level it is respectfully

NO
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NO
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NO
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NO
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NO
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NO
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						our teacher salary demand by about Rs.1400 Cr. To diffuse this salary crisis, the State Govt. had provided Rs.1137.00 Cr. from its own coffers
593.93	0.00	395.95	989.88	7434.22	-6444.34	This tend of lesser release of central share is still continuing. Further it is due to increase in teacher salary, the fund crisis is likely to aggravate further in the current financial year.

From the above tabular chart it would be clear that upto 2014-15 their had been no financial constraint and hence at the relevant time recruitment of teachers was done based on previous TET but it is from 2015-16 that financial constraint have been caused on account of inadequate release of Central share under SSA Scheme and it is primarily on account of the said reason that the Primary Directorate is under constraint to proceed further with the recruitment process of teachers under the Panchayati Raj System at the present.

15. That it is relevant to submit here that there is no legal obligation on the part of State of advertise all the vacant posts and to fill them up. How many posts are to be filed up deponent's upon.

- (a) Financial capacity or budgetary provision.
- (b) Infrastructure for the posts, in question.
- (c) The needs of filling up the posts.

- (d) Administrative exigencies.
- (e) Any other similarly situated reasons.

Thus, variety of the facts are affecting the policy decision of the state that how many posts are to be filled up."

In view of above position emerging on behalf of the State

the prayer made in the writ application is misplaced.

Writ is dismissed.

(Ajay Kumar Tripathi, J)

Surendra/-

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