

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.597 of 2017

In

LPA 1489 of 2011

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1. Laldhar Mandal S/o- Dukha Mandal Resident of Village- Mirdaul, P.S.- Narpatganj, District- Araria.
 2. Yoganand Mandal Son of Satya Narayan Mandal Resident of Village- Mirdaul, P.S.- Narpatganj, District- Araria.
 3. Shivdatt Sah Son of Badri Sah Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 4. Subodh Kumar Sah Son of late Ghutar Sah Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 5. Chandan Kumar Son of Bisheswar Yadav Resident of Village- Koachgama, P.O.- Rampur Kodarkatti, P.S.- Araria, District- Araria.
 6. Ashok Kumar Bihari Son of Tej Narayan Yadav Resident of Village- Diyari, P.O.- Rampur Kodarkatti, P.S.+District- Araria.
 7. Md. Kadir Nadaf Son of Md. Abbas Resident of Village- Azam Nagar, P.O.- Rampur Kodarkatti, P.S.+District- Araria.
 8. Sudhir Kumar Yadav Son of Ganga Prasad Yadav Resident of Village- Geiyari, P.O. Geiyari, P.S.+District- Araria.
 9. Awdhesh Kumar Yadav Son of Shri Kokai Yadav Resident of Village- Geiyari, P.O. Geiyari, P.S.+District- Araria.
 10. Dilip Kumar Singh Son of Anirudh Singh Resident of Village- Kusmoul, P.O.- Kusmoul, PS+District- Araria.
 11. Birendra Kumar Singh son of Kirtyanand Singh Resident of Village- Kusmoul, P.O.- Kusmoul, PS-Bhargama, District- Araria.
 12. Ganesh Prasad Yadav Son of Satya Narayan Yadav Resident of Village- Kamaldaha, P.O.+P.S.- Kursakatta, District- Araria.
 13. Md. Firoj Alam Son of Md. Ayub Alam Resident of Village- Kamaldaha, P.O.+P.S.- Kursakatta, District- Araria.
 14. Sadrul Alam Son of Ismail Resident of Village- Madhurauttar, P.O. +P.S.- Narpatganj, District- Araria.
 15. Shyam Sundar Pandit Son of late Basantto Pandit Resident of Village- Kadmaha, P.S. Bhargama, District Araria.
 16. Abdul Hamid Son of Abdul Kadir Resident of Village- Sisuwa, P.S.- Narpatganj, District Araria.
 17. Gayanand Gupta Son of Mukti Prasad Gupta Resident of Village- Deviganj, P.S.- Narpatganj, District- Araria.
 18. Sanjeev Kumar Yadav Son of Shree Brahma Narayan Yadav Resident of Village- Khera, P.S. Narpatganj, District- Araria.
 19. Upendra Kumar Yadav Son of - Pannalal Yadav resident oif Village- Chanda, P.S. Narpatganj, District- Araria.
 20. Sarita Kumari Daughter of Ramanand Yadav Resident of Village- Mathura- uttar, P.S.- Narpatganj, District- Araria.
 21. Laldeo Thakur Son of Shri Shital Thakur Resident of Village- Kusaoul, P.S. - Bhargama, District- Araria.
 22. Lakshmi Sardar Son of Kailu Sardar Resident of Village- Kusmoul, P.S. - Bhargama, District- Araria.
 23. Rajendra Prasad Bhagat Son of late Jagarnath Bhagat Resident of Village- Jai Nagar, P.S.- Bhargama, District-Araria.
 24. Ashok Kumar Mandal Son of late Kusum Lal Mandal Resident of



- Village- Simarbani, P.S. Bhargama, District- Araria.
25. Kumari Munni Wife of - Rajesh Kumar Yadav Resident of Village- Kusmoul, P.S. - Bhargama, District- Araria.
 26. Dilip Kumar Sah Son of Anandi Sah Resident of Village- Jai Nagar, P.S.- Bhargama, District-Araria.
 27. Ashok Mehta Son of - Kalanand Mehta Resident of Village- Shankarpur, P.S.- Bhargama, District- Araria.
 28. Raj Kumar Sah Son of late Raghubir Sah Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 29. Bhupendra Narayan Singh Son of late Motilal Singh Resident of Village- Dhangara, Simarbani, P.S.- Bhargama, District- Araria.
 30. Anmol Yadav Son of late Kutaya Yadav Resident of Village- Jai Nagar, P.S.- Bhargama, District-Araria.
 31. Suresh Kumar Yadav Son of late Parmeshwari Yadav Resident of Village- Jai Nagar, P.S.- Bhargama, District-Araria.
 32. Amarnath Jha Son of late Jagdish Jha Resident of Village +P.O- Kusmoul, P.S.- Bhargama, District- Araria.
 33. Sadanand Sah Son of late Sukhdeo Sah Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 34. Parmeshwar Prasad Son of late Bahadur Sah Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 35. Anita Kumari Wife of Awadhesh Kumar Sah Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 36. Kumari Meena Wife of Surendra Yadav Resident of Village- Jai Nagar, P.S.- Bhargama, District-Araria.
 37. Saroj Devi Wife of Vijay Mandal Resident of Village- Simarbani, P.S. Bhargama, District- Araria.
 38. Latika Devi Wife of Yoganand Mandal Resident of Village- Simarbani, P.S. Bhargama, District- Araria.
 39. Uma Devi Wife of Kapildeo Yadav Resident of Village- Dhangara, Simarbani, P.S.- Bhargama, District- Araria.
 40. Sudhir Kumar Singh Son of late Prahlad Singh Resident of Village- Dhangara, Simarbani, P.S.- Bhargama, District- Araria.
 41. Anil Kumar Das Son of late Champalal Sah Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 42. Sidhant Kumar Sangam Son of Rajendra Prasad Keshri Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 43. Jyotish Rajak Son of late Ramrupa Baitha Resident of Village-Parwaha, P.S. Farbisganj, District- Araria.
 44. Pappu Prasad Keshri Son of late Sita Ram Keshri Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 45. Vinoy Rajak Son of late Mehdi Rajak Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 46. Surendra Prasad Keshri Son of late Shyamji Keshri Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 47. Ramanand Sardar Son of late Chaudhary Keshri Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 48. Pavitri Kumari Wife of Bindeshwari Sardar Resident of Village- Ghiwa Parwaha, P.S.- Farbisganj, District Araria.
 49. Kumari Anima wife of Jaikant Jha Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 50. Pratibha Devi Wife of Arjun Prasad Sah Resident of Village- Parwaha,



- P.S. Farbisganj, District- Araria.
51. Ranju Kumari Daughter of Rabindra Nath Das Resident of Village- Ghiwa Parwaha, P.S.- Farbisganj, District Araria.
 52. Bhawana Kumari Daughter of Narayan Lal Das Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 53. Upendra Prasad Dharkar Son of Rambriksha Dharkar Resident of Village- Gargama, P.S. Narpatganj, District Araria.
 54. Vijay Prasad Keshri Son of- late Deep Narayan Keshri Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 55. Md. Yarab Nabi Son of - Md. Halim Resident of Village- Purandaha, P.S.- Farbisganj, District- Araria.
 56. Ashok Kumar Yadav Son of Tek Narayan Yadav Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 57. Reshmi Jha Wife of Mihir Kumar Jha Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 58. Prakash Mishra Son of late- Sushil Mishra Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 59. Naresh Mehta Son of Badri Prasad Mehta Resident of Village- Mushari, P.S. Farbisganj, District- Araria.
 60. Kulanand Mandal Son of - Lakshmi Mandal Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 61. Sachidanand Jha Son of - Chandranand Jha Resident of Village- Parwaha, P.S. Farbisganj, District- Araria.
 62. Shiv Chandra Mishra Son of late Janardhan Mishra Resident of Village- Shankarpur, P.S.- Bhargama, District- Araria.
 63. Prithvi Chandra Mishra Son of late Janardhan Mishra Resident of Village- Shankarpur, P.S.- Bhargama, District- Araria.
 64. Naresh Kumar Son of Gulab Chand Sah Resident of Village- Sheikhpura, P.S. Bhargama, District- Araria.
 65. Abhinandan Son of Durga Prasad Yadav Resident of Village- Sheikhpura, P.S. Bhargama, District- Araria.
 66. Indu Kumar Jha Son of- Govind Jha Resident of Village- Sirsia Kalan, P.S.- Bhargama, District- Araria.
 67. Rajesh Kumar Son of Kalanand Yadav Resident of Village- Sheikhpura, P.S. Bhargama, District- Araria.
 68. Prabha Kumari Wife of Dilip Yadav Resident of Village- Raghunathpuruttar, P.S. Bhargama, District- Araria.
 69. Ram Chandra Pandit Son of Chutturahu Pandit Resident of Village- Sirsia Kalan, P.S.- Bhargama, District- Araria.
 70. Kapileshwar Jha Son of late Rameshwar Jha Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 71. Kumari Bharti Wife of Jai Krishna Sah Resident of Village-Jai Nagar, P.S. Bhargama, District- Araria.
 72. Manoj Kumar Rai Son of Kaleshwar Rai Resident of Village- Mahathawa Bazar, P.S. Bhargama, District- Araria.
 73. Shobha Devi wife of Naresh Kumar Resident of Village- Sheikhpura, P.S. Bhargama, District- Araria.
 74. Md. Mashiuddin Son of Md. Majir Resident of Village+P.O. +P.S.- Narpatganj, District- Araria.
 75. Md. Aftab Alam Son of Md. Nizam Resident of Village- Madhurauttar, P.S.- Narpatganj, District- Araria.
 76. Md. Firoj Alam Son of Abdul Rajak Resident of Village- Sisua, P.S.-



Narpatganj, District- Araria.

77. Nirmala Devi Wife of Satya Narayan Thakur Resident of Village+P.O. +P.S.- Narpatganj, District- Araria.
78. Bharatlal Sah Son of Dasrath Sah Resident of Village- Mirdaul, P.S.- Narpatganj, District- Araria.
79. Yamun Prasad Ray Son of late Gulab Chand Ray Resident of Village- Nathpur, P.S. Narpatganj, District- Araria.
80. Luv Kumar Mandal Son of Mantu Mandal Resident of Village+P.O. Tamganj, P.S. Narpatganj, District- Araria.
81. Bilash Kumar Ram Son of Sonai Ram Resident of Village+P.O. Mirdaul, P.S. Narpatganj, District Araria,.
82. Alauddin Son of Siffat Ali Resident of Village- Khera, P.S. Narpatganj, District- Araria.
83. Mojibar Rahman Son of Islam Resident of Village- Khera Garia, P.S. Narpatganj, District- Araria.
84. Aatur Rahman Son of Md. Rafique Resident of Village- Khera, P.S. Narpatganj, District Araria.
85. Husanin Alam Son of Md. Idros Resident of Village- Sisua, P.S.- Narpatganj, District- Araria.
86. Ramdeo Rajak Son of late Bishunlal Rajak Resident of Village- Simarbani, P.S. Bhargama, District- Araria.
87. Bhuneshwar Mehta Son of late Janaklal Mehta Resident of Village- Raghunathpur Dakshin, P.S. - Bhargama, District- Araria.
88. Anil Kumar Jha Son of Bhuneshwar Jha Resident of Village- Raghunathpur Dakshin, P.S. - Bhargama, District- Araria.
89. Ajay Kumar Jha Son of - Rameshwar Jha Resident of Village- Raghunathpur Dakshin, P.S. - Bhargama, District- Araria.
90. Udai Kumar Jha Son of Lakshmi Kant Mishra Resident of Village- Raghunathpur Dakshin, P.S. - Bhargama, District- Araria.
91. Md. Naseem Ahmad Son of Abdul Majid Resident of Village+P.O.- Gokhlapur, P.S. Bhargama, District- Araria.

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, New Secretariat, Vikash Bhawan, Patna.
3. The Principal Secretary, Department of Personnel & Administration, Govt. of Bihar, Patna.
4. The Director, (Jan Shiksha), Department of Education, Govt. of Bihar, Patna.
5. The District Magistrate -Cum-Collector, District- Araria.
6. The Additional Collector, District- Araria.
7. The District Education officer, District Araria.
8. The District Program Officer(Senior), District- Araria.
9. The District Program Officer(Shaksharata), District Araria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha

For the Respondent/s : Mr. Ashutosh Ranjan Pandey- AAG15

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

2. 08-03-2017

Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners are aspirants for the post of Non-Formal Instructors from the district of Araria. On earlier occasions, this Court had disposed of similar matters holding that where the persons were required to be employed on honorarium as Non-Formal Instructors for being considered herein, the evidence of proving that they had been working for three years had to be gathered by the State by its own resources, as it was not expected of persons of such humble background to maintain records of a service rendered by them of over 20 years nor the Bank would maintain any such record and make it available to them. We have been repeatedly clarifying this matter in various applications to this Court. It appears State expects every litigant who individually come to the Court and seek clarification in absence of which they would not apply the same principle in similar cases. This is unfortunate. It only amounts to increasing the work load on the Courts in relation to unnecessary matters and expenses to litigants.



We would, thus, expect the Director (Jan Shiksha), Department of Education, Government of Bihar, Patna to instruct various officers at the district level all over the State to act in accordance with the judgment and clarification given by this Court rather than force litigants to come to this Court individually.

However, as the matter are of such urgency, we once again clarify the matter in relation to persons from district Araria as well. Consistent in the clarification given earlier, we would only notice in this case that earlier when the list was prepared by the District Education Officer, Araria and communicated to the Director (Jan Shiksha), Department of Education, Government of Bihar, Patna under memo no. 295 dated 30.08.2016 (Annexure -7), the petitioners were all included thereunder, but subsequently, a fresh list was prepared on or about 27.12.2016 (Annexure-10), names of only 194 persons were sent and the petitioners were excluded on the ground that they could not produce document to show that they were continuously receiving honorarium for a period of three years which is contrary to the clarification, we have made in several similar applications.



We would, thus, direct the Director not to proceed with Annexure-10 alone which excludes the petitioners but must look into Annexure-7 which was supposed to have been sent to him. Keeping in mind that the burden of proof cannot be put on petitioners for the reasons already indicated above, the Director (Jan Shiksha), Department of Education, Government of Bihar, Patna is expected to act immediately.

With this observation and clarification, this application stands disposed of.

Re : Interlocutory Application No. 1780 of 2017

Interlocutory Application No. 1780/2017 has been filed with similar prayer from Saran District whereby it is pleaded that as the applicant before this Court in earlier proceeding was “the Chapra District Special Education Instructor Sangh through its Secretary namely Binay @ Vinay Kumar Shrivastava” upon scrutiny only name of one person i.e. Binay @ Vinay Kumar Shrivastava has been included in the list and all other instructors who were members of the association and had been working as such have been left out on the ground that they did not move this Court and there was no order in their favour. It is clarified



that whether there is an order in favour of an individual or not, if a principle has been decided by this Court in a particular manner, then, all persons similar situate have to be treated in similar way, even if, they do not have orders of the Court. The State cannot discriminate between people who are similarly situated, have not moved the Court.

Accordingly, it would be in fitness to things to allow this intervention application. We direct the Director (Jan Shiksha), Department of Education, Government of Bihar, Patna to look into the matter and take a decision appropriate, under the observations of this Court.

Accordingly, Interlocutory Application No. 1780/2017 stands disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

