

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1654 of 2015

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1. Mahip Kumar Giri son of late Satya Narayan Giri, resident of village & P.O. Koireegawan, Police Station- Barharia, District- Siwan, at present posted and working as an assistant teacher in Govt. upgraded Middle School Tetalahi, Anchal-Barharia, District- Siwan.
 2. Rama Shankar Prasad son of late Ram Jeetan Bhagat, resident of village & P.O. Dhanauti, Police Station- Daraunda, District- Siwan, at present posted and working as an assistant teacher in Govt. upgraded Middle School Machhauta, Anchal-Daraunda, District- Siwan
 3. Abdul Kadir, son of Abdul Salam, resident of village & P.O. Ratan Parauli, Police Station- Bhagwanpur Hat, District- Siwan, at present posted and working as an assistant teacher in Govt. upgraded Middle School Husseopur (Urdu), Anchal-Goreyakothi, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Regional Deputy Director of Education, Saran Division at Chapra.
5. The District Education Officer, Siwan.
6. The District Programme Officer (Establishment), Siwan.
7. The Block Education Officer, Barharia, District- Siwan.
8. The Block Education Officer, Daraunda, District Siwan.
9. The Block Education Officer, Goreyakothi, District Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra
For the Respondent/s : AC to GP – 18

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 16-02-2017

Heard Sri Umesh Kumar Mishra , learned counsel for the
petitioners and Sri Mukul Prasad , learned AC to GP No. 18.

Three petitioners, have approached this Court invoking its
writ jurisdiction under Article 226 of the constitution of India with a
prayer to quash clause – ‘1’ of Government Order contained in Memo



No. 04 dated 4.1.2010 issued under the signature of Director, Primary Education by which it was decided that promotion will not be given with retrospective effect.

It was submitted by Sri Mishra, learned counsel for the petitioners, that the said decision is contrary to a Full Bench Judgment of this Court reported in **2009 (3) PLJR 384 Ram Nath Prasad Singh vs. The State of Bihar & Ors.** He submits that after issuance of the said communication the petitioners apprehending infringement of their rights filed representation before the authority concerned including Principal Secretary, Human Resources Development Department, Government of Bihar, Patna, however no decision has been taken till date.

Primarily this Court is of opinion that as a matter of right one may not claim any promotion with retrospective effect. Moreover, the petitioners at the moment have not brought any fact to the notice of this Court that any of the rights of the petitioners pursuant to the said notification has been infringed. It appears that it is only apprehension of the petitioners. However, since petitioners had earlier filed representation before the authority concerned, without going into the merit of the case, the Court proposes to dispose of the present writ petition granting liberty to the petitioners to file separate representations before the Principal Secretary, Human Resources



Development Department in respect of their grievance against clause –‘1’ of Annexure- ‘2’ to the present writ petition.

It is reiterated that this Court has not recorded any opinion on the merit of the case. However, if such representations are filed within a period of six weeks from today, the Court expects that the Principal Secretary may examine the same and pass appropriate order in accordance with law preferably within a period of three months from the date of filing of such representations.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16-02-2017
Transmission Date	NA

