

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.3938 of 2014**

**In**  
**Civil Writ Jurisdiction Case No. 1714 of 2011**

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1. Manoj Kumar Sharma Son of Shri Ramadhin Prasad Sharma Resident of Village - Saini Tola, P.O- Simri Bakhtiarapur, P.S.- Bakhtiarapur, District - Saharsa

.... .... Petitioner/s

Versus

1. The State of Bihar null
2. Mr. Prakash Ranjan Kumar, Son of not known to the petitioner The Regional Deputy Director of Education, Koshi Division, Saharsa
3. Mr. Surendra Kumar Son of not known to the petitioner The Distrit Programme Officer (Establishment), District - Saharsa
4. Mr. Ram Ekbal Sharma Son of not known to the petitoiner The Block Education Officer, Simri Bakhtiarapur Block, District - Saharsa
5. Mr. Bimal Kumar son of not known to the petitioner The Executive office,r Nagar Panchayat, Simri Bakhtiarapur, District - Saharsa
6. Mr. Lalan Kumar Thakur Son of not known to the petitioner The Head Master, Upgraded Middle School, Saini Tola, P.O.- Simri Bakhtiarapur, District - Saharsa

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Siya Ram Shahi  
Mr. S, M. Asraf

For the State : Mr. Ashish Kumar Lal, Ac to GA 5

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**

3      23-05-2017      Heard learned counsel for the petitioner and learned counsel for the State.

In the present case, petitioner has raised a grievance for non compliance of the order dated 20.12.2011 passed in C.W.J.C. No.1714 of 2011.

It appears that two writ petitions have been filed, one by Subhash Kumar Bhagat vide C.W.J.C. No.1087 of 2011



and another by Manoj Kumar Sharma vide C.W.J.C. No.1714 of 2011. In both the writ petitions common issues have been raised for setting aside the order dated 22.12.2010 passed by the Appellate Tribunal in Appeal No.693 of 2009. In both writ petitions common issues were raised as was claimed that writ petitioners were not appointed and respondents have illegally accommodated as Panchayat Teacher. Learned Single Judge of this Court vide order dated 20.12.2011 has set aside the order of the Appellate Tribunal and has passed the order in favour of Subhash Kumar Bhagat and Manoj Kumar Sharma respectively. As it appears from the record that one Vijay Kumar who was respondent no.6 in C.W.J.C. No.1087 of 2011 filed L.P.A. No.295 of 2012 and Division Bench of this Court by a reasoned order has set aside the order dated 20.12.2011 and in the order it has been mentioned that the order passed in C.W.J.C. No.1087 of 2011 was subject matter of consideration whereas C.W.J.C. No. 1714 of 2011 was not subject matter of consideration.

Learned counsel for the petitioner submits that judgment with respect to Manoj Kumar Sharma reached to its finality and as such opposite parties have failed to comply the order of this Court.



In the present case both writ petitioners bearing C.W.J.C. Nos. 1087 of 2011 and 1714 of 2011 were made analogous and learned Single Judge has passed a composite order and grievance of both petitioners cannot be separated. Though L.P.A. was filed with respect to the order passed in C.W.J.C. No.1087 of 2011 but while allowing LPA set aside the order of writ petition and of Tribunal in Appeal No.693 of 2009 is restored. In pith and substance the order passed by the learned Single Judge has been set aside though petitioners were not same. Petitioner may be technically correct but so for restoration of the order passed by the Appellate Tribunal, if this Court directs that for compliance of the order of the learned Single Judge it will amount to asking the authorities to violate the order of Division Bench.

In such view of the matter, the petitioner will be at liberty to take legal course as available in law.

With the aforesaid observation this application is disposed of.

Vinay/-

**(Shivaji Pandey, J)**

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