

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 19299 of 2014

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Praveena Khatoon D/o Md. Shahabuddin W/o Md. Murtuza, Resident of Village -
Gidarganj, P.S. - Andharatharhi, District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary (Primary Education), Human Resources Development Department, Government of Bihar, Patna.
2. The District Programme Officer, Madhubani.
3. The Block Development Officer, Laukahi, District- Madhubani.
4. The Block Education Extension Officer, Laukahi, District- Madhubani.
5. The Pramukh, Laukahi Panchayat Samiti, District- Madhubani.
6. The Block Teachers Selection Committee, Laukahi, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Kripa Nand Jha, Advocate
For the State	:	Mr. Indradeo Prasad, SC 27 with Mr. Sunil Kumar Singh, AC to SC 27

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 07-03-2017

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

The petitioner has moved the Court seeking direction to the
respondents to extend similar benefit to him as has been granted to the
petitioners in C.W.J.Cs. No. 10996 of 2011, 10076 of 2012 and
several other writ petitions.



The matter relates to appointment of Block Teachers. The petitioner, along with similarly situated persons, were applicants for the said post for which selection was also made. However, when formal appointment letters were not given, several persons had moved in the aforementioned writ petitions, which stood allowed and a direction was given to the authorities to issue appointment letters to them.

Learned counsel for the petitioner submitted that once such directions were passed in those cases and the petitioner was identically situated, she had approached the Block Development Officer, Laukahi and the Block Education Extension Officer, Laukahi making him aware of such decision and requesting him to extend the same benefit to her. However, when the same was not done, the petitioner has approached the Court. Learned counsel submitted that despite there being a clear-cut order of the Court to give the appointment letter, the only stipulation being that the concerned should be among the persons who were selected, and the writ petitioner being one of such candidates, not being given similar relief, is arbitrary.

Learned counsel for the State raised a preliminary objection with regard to the maintainability of the writ petition. He submitted that the law provides an alternate remedy to the petitioner by



approaching the District Teachers Employment Appellate Authority (hereinafter referred to as the 'Authority'), in terms of the provisions of the resolution contained in Memo No. 3153 dated 25.08.2008 of the Human Resources Development Department, Government of Bihar as well as the Bihar State School Teachers and Employees Complaint Redressal Rules, 2015. He further submitted that the petitioner has thus falsely stated in paragraph no. 23 of the writ petition that he has no other efficacious or alternative remedy.

Learned counsel for the petitioner, by way of reply, submitted that in view of the decision of this Court in the case of **Ajay Kumar Srivastava v. State of Bihar** reported as **2006 (3) PLJR 573**, when a person is identically situated, a benefit granted to one by the Court must be granted to persons similarly situated, even if they do not approach the Court and are not party to the said litigation.

Having considered the rival contentions, the Court finds no merit in the objection raised by learned counsel for the State with regard to the maintainability of the writ petition. First and foremost, the matters which are to be referred to the Authority relate to a 'dispute'. In the present case, in view of the stand of the State that persons were finally selected and a list was prepared and only formal appointment letters were not given, will not come in the category of a 'dispute' as there is nothing to be adjudicated or settled. A mere



ministerial act of the authorities of issuing a formal appointment letter, the petitioner moving the High Court under its writ jurisdiction under Article 226 of the Constitution of India is a proper forum, since only a direction has to be issued to the authorities to move to the next stage and complete the formality of the exercise and take it to its logical conclusion by issuing of appointment letter, as is the position in the case at hand. Had there been any 'dispute' with regard to the eligibility, selection or otherwise in the transaction, learned counsel for the State would have been correct that the dispute could equally have been adjudicated before the Authority. Secondly, as per the decision relied upon by learned counsel for the petitioner in the case of **Ajay Kumar Srivastava** (supra), as also the State Litigation Policy, 2010, a conscious decision has been taken by the State government that when an issue has been decided or when similarly situated persons have been granted relief by the Courts, the same benefit should be granted by the authorities themselves to other persons who are similarly situated and who may not have approached the Court. In the present case, identically situated persons have been granted relief and appointment letters have been given to them without the authorities raising any 'dispute' or objection and, thus, the matter having attained finality by judicial pronouncements, but the benefit not being given to the petitioner, who is identically situated, is



also a violation of the State Litigation Policy itself.

In view of the aforesaid, the writ petition stands allowed in terms of order dated 13.07.2011 passed in C.W.J.C. No. 10996 of 2011 as well as order dated 02.09.2014 passed in C.W.J.C. No. 16185 of 2013 and its analogous cases.

The Block Development Officer, Laukahi is directed to ensure that appointment letter is issued to the petitioner, within four weeks from the date of receipt/production of a copy of this order before him.

(Ahsanuddin Amanullah, J)

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