

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1581 of 2015
IN
Civil Writ Jurisdiction Case No. 668 of 2013**

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1. Sanjay Kumar Chakravarty Son of Dilip Kumar Chakravorty, Assistant Teacher, History, Durga Charan High School, bhagalpur, P.S. - Kotwali Town & District - Bhagalpur.

2. Kaushaik Kumar Das, S/o Amar Kumar Das, Assistant Teacher, Geography Durga Charan High School, Bhagalpur, P.S. - Kotwali, Town & District - Bhagalpur.

3. Annie Sinha, S/o Nani Kumar Singh, Assistant Teacher Bilology, Durga Charan High School Bhagalpur, P.S. - Kotwali Town & District - Bhagalpur.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Patna.

2. The Director, Secondary Education, Bihar, Patna.

3. The District Education Officer, Bhagalpur

4. The District Programme Officer (Establishment), Bhagalpur.

5. The Managing Committee, Durga Charan High School, Bhagalpur, P.S. - Kotwali Town & District - Bhagalpur, through its Secretary.

6. The Head Master, Durga Charan High School, Bhagalpur, P.S. - Kotwali, Town & District - Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate
Mr. Avanendra Kumar Jha, Advocate

For the Respondent/s : Mr. Upendra Pratap Singh
AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 13-01-2017

Heard learned counsels for the parties.

For the reasons indicated in the condonation application, which is I. A. No. 7181 of 2015, the delay in filing of appeal is condoned.



The matter has been heard on merit thereafter. The issue before the Learned Single Judge was the approval of services of petitioners, which included the present appellants, as a teacher, under minority school. The cases were heard together and disposed off on the basis of ratio and the rational provided in the case of Subhash Kumar Vs. The State of Bihar & Ors., which is C. W. J. C. No. 14248 of 2013, decided on 30th of July, 2013.

Counsel for the appellants submits that the very foundation, based on which the claim of the present appellants was dismissed, is now knocked out by a Division Bench in L. P. A. No. 136 of 2015, decided on 18.07.2016, a copy of which has been produced before the Court.

Subhash Kumar had moved the Division Bench against the decision of the Learned Single Judge. The Division Bench after considering the entirety of the rules, regulations and some decisions rendered in the matter of grant of recognition of service to minority schools as well as the Rules relating thereto, have come to a considered opinion that it is the date of appointment of such teacher, which is of relevance, not the date of passing of B.Ed. examination.

Since the Division Bench has set aside the order of the Learned Single Judge passed in the case of Subhash Kumar and the case of Subhash Kumar formed the basis for rejecting the claim of the petitioners for grant of recognition from the date of appointment, instead of passing of B.Ed. examination, the impugned order, dated



18.02.2014, in so far as it relates to the present appellants, is hereby set aside. This appeal is allowed.

The respondent authorities, especially the Director, Secondary Education, Government of Bihar is directed to pass a fresh order keeping in mind the declaration of law made by a Division Bench on 18.07.2016 in L. P. A. No. 136 of 2015, preferably within a period of three months from the date of communication / production of a copy of this order.

A copy of the order, passed in L. P. A. No. 136 of 2015 is placed on record for future reference.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	17.01.2017
Transmission Date	

