

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7881 of 2012

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1. Satyendra Narayan Singh, Son of Late Sarayu Prasad Singh, resident of Village - Gheura, P.S. - Risiup and District - Aurangabad President Bihar Rajya Anoupcharika Shiksha Anudeshak Sangh, District Aurangabad, Reg. No. 3886 Dated 12.9.2000.
 2. Rajendra Yadav, Son of Late Ratan Yadav, resident of Village - Dharhara, P.S. - Rafiganj and District - Aurangabad-Vice President.
 3. Ramadhar Singh, Son of Late Dev Narayan Singh, resident of Village - Chatra, P.S.- Phesar and District - Aurangabad – Secretary.
 4. Subansh Prasad Mehta, Son of Late Indradev Mehta, resident of Village- Mali and District - Aurangabad – Cashier.
 5. Amerika Ram, Son of Late Dineshwar Ram, resident of Village - Shivrath Pur, P.S.- Barun and District - Aurangabad - Executive Member.
 6. Arjun Prasad Singh, Son of Late Rambaran Singh, P.S.- Hariharganj, District - Aurangabad - Executive Member.

.... Petitioners

Versus

1. The State of Bihar, through the Chief Secretary, Old Secretariat, Patna.
2. The Principal Secretary, Department of Human Resource Development, Bihar, Patna.
3. The Principal Secretary, Department of Personnel and Administration Reforms, Bihar, Patna.
4. The Director, Primary Education, Bihar, Patna.
5. The District Magistrate, Aurangabad.

.... Respondents

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Appearance :

For the Petitioners : Mr. Anirudh Kumar Verma, Advocate.
For the Respondents : Mr. Parth Sharthi, S.C. 10.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
CAV ORDER

7 17.10.2017 The petitioners have filed this writ petition, seeking direction upon the respondent authorities as to adjust the petitioners against the suitable post likewise the Non Formal Supervisor, who were also appointed alike the petitioners.

The facts in brief, giving rise to the present petition is



that the Government of India formulated Non Formal Education Programme for giving Non Formal Education to the children of 6-14 years of age and different centers in the State of Bihar were opened. As to run these centers, the post of Supervisor and Instructor were created on a fixed stipend and such appointments were made in different phases, in accordance with prescribed procedure. The said programme continued under the Department of Adult and Non Formal Education, Government of Bihar. The said programme was finally closed in the year 2001.

The learned senior counsel for the petitioners submitted that in C.W.J.C. No. 8110 of 2001, this Court had occasion to consider the matter of absorption of Supervisors working under the scheme of Adult and Non Formal Education, and the State Government was directed to complete the process of absorption of erstwhile Supervisors and they were accordingly, absorbed on Class-III posts.

It is also submitted that in C.W.J.C. No. 8418 of 2010, a Co-ordinate Bench of this Court vide order dated 21.04.2011, directed the State Government to consider the case of Instructors for absorption on Class-IV post in regular service of the State Government, subject to they being validly appointed and subsequently thrown out on account of closure of the said



programme. The State Government preferred an L.P.A. bearing No. 1489 of 2011, challenging the order dated 21.04.2011, referred above, passed in C.W.J.C. No. 8418 of 2010. The said Letters Patent Appeal of the State came to be dismissed vide order dated 11.08.2015 passed by the Division Bench of this Court, indicating expectation of this Court that the State Government would take expeditious step to see that eligible people are rehabilitated, within a period of six months.

The State Government moved before the Hon'ble Supreme Court in S.L.P. No. 32079 of 2015 and other analogous cases. The Hon'ble Supreme Court while dismissing the Special Leave Petition vide order dated 26.02.2016 (Annexure-3), preferred by the State Government put a restriction that the relief granted by the High Court shall be restricted to those, who approached the High Court and were heard as well as who wanted to get themselves impleaded and those who have filed application here at par with those former as well as all those petitioners. Instructors which are pending as on date before the High Court but shall not apply to any fresh case either here or before the High Court.

Some Instructors who had earlier not moved either before this Court or Supreme Court, moved before the Hon'ble



Supreme Court in Writ Petition (Civil) No. 678 of 2016, which was permitted to be withdrawn with a liberty to approach this Court, vide order dated 02.09.2016.

It is further submitted that M.J.C. No.1931 of 2016 and analogous cases were heard by the Division Bench of this Court, and vide order dated 01.08.2016, the Division Bench of this Court made clarification of the order to the effect that State would harbor no further confusion and would do what is just and fair and do not drive the citizen to another round of litigation.

In another M.J.C. bearing No. 3765 of 2016, the Division Bench of this Court vide order dated 25.01.2017, modified the order dated 11.08.2015 passed in Civil Review No. 36 of 2012, to the extent that if the authorities find that the petitioners are similarly circumstanced to the other persons, they would be similarly treated.

It is submitted that those persons, who had approached the Hon'ble Supreme Court in Writ Petition (Civil) No. 883 of 2016 and were granted liberty to approach this Court moved before this Court in C.W.J.C. No. 384 of 2017, C.W.J.C. No. 2314 of 2017 and C.W.J.C. No. 46 of 2017. A Co-ordinate Bench of this Court, relying upon paragraph no. 3 of the earlier referred judgment of the Division Bench passed in M.J.C. No. 3765 of



2016 of this Court, vide order dated 03.03.2017, directed the State respondents to consider the claim of the petitioners therein, in the backdrop of the issues settled by the Court within a maximum period of three months from the notice of the order.

The learned senior counsel for the petitioners further brings to the notice of this Court that an M.J.C. bearing No. 597 of 2017, arising out of L.P.A. No. 1489 of 2011, was filed before this Court, which came to be decided vide order dated 08.03.2017 passed by the Division Bench of this Court, wherein it was 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 order of the Court. The State cannot discriminate between people, who are similarly situated, have not moved the Court.

Relying upon the above referred decisions of this Court, the learned senior counsel for the petitioners submits that the instant writ petition has been filed by the petitioners seeking direction in terms of the order dated 11.08.2015 passed in L.P.A. No. 1489 of 2011, order dated 25.01.2017 passed in M.J.C. No. 3765 of 2016, order dated 08.03.2017 passed in M.J.C. No. 597 of 2017 and order dated 03.03.2017 passed in C.W.J.C. No.



384 of 2017.

Since the 'issue' involved in the matter is squarely covered by the decision of this Court, specially vide judgment dated 11.08.2015 passed in L.P.A. No. 1489 of 2011 and order dated 25.01.2017 passed in M.J.C. No. 3765 of 2016, therefore, it requires no fresh adjudication by this Court.

In view of the judgment of the Hon'ble Supreme Court reported in A.I.R. 1997 SC 1628, and in terms of Clause 4 (C) of the Bihar State Litigation Policy, the respondents are directed to look into the matter and take an appropriate decision in respect of the petitioners.

I.A. No. 3441 of 2017:

The aforesaid Interlocutory Application has been filed on behalf of as many as 77 applicants for grant of relief sought for in the writ petition, to all the members of Bihar Rajya Anoupcharika Shikshak Anudeshak Sangh, District-Aurangabad.

Since the petitioners have filed this writ petition for their absorption only, therefore, I.A. No. 3441/2017 is rejected.

However, in view of the clarification made by the Division Bench in the order passed in M.J.C. No. 597 of 2017, all persons similarly situated have to be treated in similar way, even if, they do not have orders of the Court. It would not be fair on the



part of the State to discriminate between people who are similarly situated, have not moved the Court.

Therefore, the applicants of I.A. No. 3441/2017 and all other persons similarly situated have to be treated in similar way, who may approach the respondent authorities.

This application is, therefore, accordingly, disposed of, in terms of observations and directions made above.

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(Sudhir Singh, J)

