

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7428 of 2017

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Parivartankari Prarambhik Sikshak Sangh, Bihar Regd. Office at Raksha (South),
Via Kanti, P.S. Karja, District- Muzaffarpur, represented through its State President
Sri Banshidhar Brajwashi S/o Sri Nand Kishore Sahani R/o Village- Raksha
(South), P.S. Karja, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Principal Secretary, Department of Human Resource Development, Bihar,
Patna
3. The Director, Primary Education, Department of Human Resource
Development, Bihar, Patna
4. The Joint Secretary, Department of Education, Government of Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Manoj, Advocate.

For the Respondent/s : Mr. Ashutosh Ranjan Pandey-AAG-15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-05-2017

Petitioners were initially working as Siksha Mitra,
thereafter they were absorbed as panchayat teachers and while
absorbing them as panchayat teachers, they were granted a
consolidated pay on contract basis. Now, statutory rule has been
framed for granting them an appropriate pay scale and the grievance
of the petitioner is that under Clause 2.8, a cut off date has been fixed
and it is stated that the grade pay in the appropriate scale shall be paid
only after two years of issuance of the notification.

Interalia contending that fixing of the cut off date, as two
year for grant of grade pay is ultra vires and illegal, this writ petition
has been filed.



Except for contending that the provision is of ultra vires and it is inconvenient to the petitioner, nothing is brought to our notice on the basis of which, the discretion exercised by the State Government in doing so can be termed as illegal, unconstitutional or impermissible under law. Admittedly, the petitioner was working on a consolidated pay on contract basis and now the pay scale is being introduced for the first time, while bringing the petitioner in the pay scale and while doing so if a discretion has been exercised to grant a particular grade pay after period of two years, we see no illegality in the same warranting exercise of our extraordinary power in a petition under Article 226 of the Constitution. The State Government has only exercised its power of legislation under Article 309 of the Constitution and in doing so, in the absence of there being any constitutional or statutory breach, no case for indulgence is made out merely because its causes inconvenience to the petitioner.

Accordingly, finding no case, the petition stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30-05-2017
Transmission Date	NA

