

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15120 of 2016

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1. Ved Prakash S/o Subhash Chandra Bose resident of Bharat Raut, P.O. + P.S. Hajipur, District Vaishali
 2. Abhay Kumar Singh S/o Ganga Prasad resident of Majalis Sarai Lane, Tilak Maidan, P.S. Muzaffarpur, Distt. - Muzaffarpur
 3. Jai Krishna Kumar Son of Gyandeo Yadav resident of Garits Tola, P.O. + P.S. Bharahi Bazar, District Madhepura
 4. Gautam Kumar S/o Ganesh Prasad Singh resident of village - Navinagar, P.S. Navinagar, District Aurangabad
 5. Arun Kumar Ram @ Arun Kumar Son of Khakhan Ram resident of Rasulpur Mobarak, P.O. Bhan Gouraha, District Vaishali
 6. Harendra Kumar Son of Suryadeo Singh resident of village - Fatehpur, P.O. Fatehpur, District Patna
 7. Rahul Kumar Son of Ashok Kumar resident of village - Fatehpur, P.O. Fatehpur, District Patna
 8. Nand Kishore Ray Son of Kaleshwar Ray resident of village - Lahuya, P.O. Lahuya, District - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, New Secretariate, Govt. of Bihar, Patna
2. The Secretary, H.R.D. Department, New Secretariate, Govt. of Bihar, Patna
3. The Director, Primary Education, Bihar
4. The District Magistrate, Vaishali
5. The District Education officer, Vaishali
6. The District Magistrate, Muzaffarpur
7. The District Education officer, Muzaffarpur
8. The District Magistrate, Patna
9. The District Education officer, Patna
10. The District Magistrate, Madhepura
11. The District Education officer, Madhepura
12. The District Magistrate, Samastipur
13. The District Education officer, Samastipur
14. The District Magistrate, Aurangabad
15. The District Education officer, Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.K.Shahi, Sr. Advocate Mr. Sri Krishna Ranjan, Advocate Mr. Vasant Vikas, Advocate
For the Respondent/s	:	Mr. Subhash Chandra Mishra- SC16

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 28-02-2018 Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the State.



Manifold submissions have been advanced with regard to the grievance raised in the writ petition.

Mr. Prashant Kumar Shahi, learned senior counsel appearing on behalf of the petitioners submits that the petitioners have passed TET examination in the year 2011. He submits that there are a large number of vacancies available yet the respondent-State are not undertaking selection process for appointment of teachers. He submits that if they do not conduct the selection process then the right to consideration after acquiring eligibility of the petitioners may be frustrated. The respondents have not indicated whether there exists vacancy and they have also not indicated that how they propose to fill up the vacancy in order to cater the need of teaching pursuant to the scheme of Sarv Shiksha Abhiyan. Mr. Shahi submits that the eligibility acquired by the petitioners is only for a period of 7 years. The petitioners have acquired right to consideration for seven years but they could not be engaged as the examination for selection was not held every year. Otherwise, holding examination once after a gap of 2-3 years will frustrate the very object of holding TET examination and declaring teachers eligible if they are not considered for selection.

His next limb of argument is that the eligibility test was



introduced with a view to appoint quality teachers but the respondents have adopted recalcitrant attitude in the matter of appointment and a large number of vacancies are available yet they are not taking selection process although obligation under the Sarv Shiksha Abhiyan/Right to Education to children up to the age of 14 years is as a matter of right. Under the Act of 2009, there is teacher-student ratio but the same has not been followed in the matter of ensuring education in the school.

Considering the aforesaid submission of Mr. Shahi, the writ petition is disposed of with a direction to the respondents to take step in terms of Right to Education Act, 2009 and fill up the vacancies to match the teachers-students ratio as envisaged under the Act. In view of the constitutional scheme under Article 21A of the Constitution, which obliges the State to take affirmative action in order to wheel ahead the constitutional obligation under Article 21A of the Constitution and Right to Education Act, 2009 expeditiously.

With the aforesaid the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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