

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10387 of 2018

1. Arvind Kumar, Son of Late Sidheshwar Sharma, Resident of Village+Post Office-Chhariyari, P.S.-Makhdumpur, District-Jehanabad, at present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Musi, Anchal-Tekari, District-Gaya.
2. Chandramani Kumar, Son of Late Mahendra Prasad Singh, Resident of Village-Jamuawan, Police Station-Mahkar, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Simrauka, Anchal-Khizersarai, District-Gaya.
3. Anup Kumar, Son of Sri Gajendra Mohan Prasad, Resident of Mohalla-Janakpur, Sujata Press, Near-River Side, Police Station-Muffasil, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Pachlakh, Anchal-Khizersarai, District-Gaya.
4. Mukesh Kumar, Son of Late Upendra Narayan Singh, Resident of Mohalla-Siddharthpuri Colony, Police Station-Muffasil, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Kodihara, Anchal-Khizersarai, District-Gaya.
5. Dhananjay Singh, Son of Late Jagdish Singh, resident of Mohalla-Magadh Colony, Road No. 5, Police Station- Magadh Medical Colony, Road No.5, Police Station Magadh Medical College, District-Gaya. At Present Posted and Working as an Assistant Teacher in Govt. Middle School Kalandra, Block-Sherghati, District-Gaya.
6. Rahul Kumar, Son of Late Dworika Prasad, Resident of Village-Jamuawan, Police Station-Khizer Sarai, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Jagdiha, Anchal-Khizersarai, District-Gaya.
7. Pawan Kr. Alok, Arvind Kumar & Ors Son of Late Jagat Prasad Singh, Resident of Village + Post Office-Dariyapur, P.S.-Atari, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Karamchak, Anchal-Mohra, District-Gaya.
8. Pankaj Kumar, Son of Late Kamal Prasad, resident of Mohalla-Jheelganj Pipargali, Police Station-Kotwali, District-Gaya. At Present Posted and At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Barew, Anchal-Manpur, District-Gaya.
9. Shravan Kumar, Son of Late Sita Chaudhary, Resident of Village+Post Office-Kabila, P.S.-Parwatta, District-Khagadia. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Katalpura, Anchal-Atari, District-Gaya.
10. Manoj Kumar, Son of Ram Naresh Prasad, Resident of Village-Maghra, Police Station-Biharsharif, District-Nalanda. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Amarua, Anchal-Fatehpur, District-Gaya.



11. Akshay Kumar, Son of Late Bigan Das, Village + Post Office-Sagarpur, P.S.-Makhdumpur, District-Jehanabad. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Bhalua, Anchal-Dobhi, District-Gaya.
12. Satya Prakash, Son of Sri Hari Sao, Resident of Mohalla-Bithosharif, Police Station-Chandauti, District-Gaya, At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Birnoi, Anchal-Atri, District-Gaya.
13. Sunil Kumar, Son of Sri Mohan Lal Gupta, Resident of Mohalla-Sadar Bazar Jamalpur, Police Station-Jamalpur, District-Munger, At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School BaHera, Anchal-Dobhi, District-Gaya.
14. Chandrabhushan kr. Sinha, Son of Late Shiv Pujan Sinha, Resident of Mohalla- Hanuman Nagar, Road No. 7, Mustafabad, Police Station-Rampur, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Mahmadda, Anchal-Paraiya, District-Gaya.
15. Akhilesh Kr. Pathak, Son of Late Madheshar Pathak, Resident of Village + Post Office-Ismailpur, P.S.-KhizerSarai, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Rupan Bigha, Anchal-Tekari, District-Gaya.
16. Prem Kumar Das, Son of Late Sarjoo Ram Das, Resident of Village-Chotki Nawada, Police Station-Delha, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Amokhar, Anchal-Paraiya, District-Gaya.
17. Anil Kumar, Son of Chandrika Prasad Resident of Village-Kukra, Police Station-Buniyadganj, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Tikar Hindi, , Anchal-Atri, District-Gaya.
18. Vinod Kumar Ravidas, Son of Arjun Das, resident of-Angra, Post Office + Police Station-Angra (Aanti), District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Alampur, Anchal-Tekari, District-Gaya.
19. Santosh Kr. Sinha, Son of Sri Sudhir Kumar Sinha, Resident of Mohalla-New Godown Gaya, Police Station-kotwali, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Padya, Anchal-Barachatti, District-Gaya.
20. Rakesh Kumar Sinha, Son of Late Awadh Kishor Prasad Sinha, Resident of Awadh Kunj, Khatkachak, Madanpur, P.S.-Vishnupad, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Pakri, Anchal-Fatehpur, District-Gaya.
21. Biresh Kumar Sinha, Son of Sri Ram Sharan Prasad, Resident of Village-Nanand, Police Station-Silao, District-Nalanda. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Patuhla, Anchal-Wazirganj, District-Gaya.
22. Satyendra Kumar Singh, Son of Late Ram Singh, Resident of Village-Malti, Police Station-Atri, District-Gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Pura, Anchal-Wazirganj, District-Gaya.



23. Ramjee Prasad, Son of Late Harihar Mahto, Resident of Village-Nanand, Police Station-Silao, District-Nalanda. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Baraini, Anchal-Neemchak Bathani, District-Gaya.
24. Manoj Kumar, Son of Late Rampadarath Singh, Resident of Mohalla-Maksudpur House, Moria Ghat, Police Station-Kotwali, District-Gaya At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Pahra, Anchal-Guraru, District-Gaya.
25. Binod Bihari, Son of Late Sukhdeo Prasad, Resident of Village-Kosma, Police Station-Chandauti, District-gaya At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Karjani, Anchal-Atri, District-gaya.
26. Surendra Kumar, Son of Late Ram Das Prasad, Resident of Village-Lakerdewa, Police Station-Sherghati, District-Gaya At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Kanhaul, Anchal-Bodh-Gaya, District-Gaya.
27. Francis Samuel, Son of Late Daniel Samuel, Resident of Mohalla-Christian Colony, Police Station-Rampur, Distirct-Gaya At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Sale Pura, Anchal-Gurua, District-Gaya.
28. Jayashankar Tiwary, Son of Late Kameshwar Tiwary, Resident of Village+Post office-Kachnawan, P.S.-Belaganj, District-gaya. At Present Posted and Working as a Trained Graduate Teacher in Govt. Middle School Akbarpur,, Anchal-Tekari, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Special Secretary of Education Department, Bihar, Patna.
5. The Regional Depury Director of Education, Magadh Division, Gaya.
6. The District Education Officer, Gaya.
7. The Chairman of the District promotion Committee-Cum-the District education Officer, Gaya.
8. The District Programme Officer, (Establishment), Gaya.
9. The Member Secretary of District Teacher Promotion Committee-Cum-The District Programme Officer (Establishment) Gaya.
10. The Block Education Officer, Tekari, District-Gaya.
11. The Block Education Officer, Khizersarai, District-Gaya.
12. The Block Education Officer, Sherghati, District-Gaya.
13. The Block Education Officer, Mohra, District-Gaya.
14. The Block Education Officer, Manpur, District-Gaya.
15. The Block Education Officer, Atari, District-Gaya.
16. The Block Education Officer, Fatehpur, District-Gaya.
17. The Block Education Officer, Dobhi, District-Gaya.
18. The Block Education Officer, Paraiya, District-Gaya.
19. The Block Education Officer, Neemchak Bathani, District-Gaya.



20. The Block Education Officer, Guraru, District-Gaya.
21. The Block Education Officer, Bodh-Gaya, District-Gaya.
22. The Block Education Officer, Gurua, District-Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv.
For the Respondent/s : Smt. Binita Singh- SC28

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 06-08-2018 Heard the parties.

In the present writ application, the following reliefs have
been sought for on behalf of the petitioners :

1(I) For issuance of an appropriate writ in the nature of certiorari for quashing the Memo No.484 dated 31.03.2018 issued under the signature of the Special Secretary of the Government, by which the cut-off date has been fixed at 31.12.2017 to such teachers, who have the qualification of post graduate and they have remained in graduate trained pay scale for one year, only such teachers would be considered for promotion on the post of Headmaster in Govt. Middle School as per the Nationalized Elementary School Teacher Transfer and Disciplinary Action and Promotion Rule, 2018, and in Column No.1, only such Graduate Teachers, who have completed one year in graduate trained pay scale having, no qualification of post graduate and this relaxation will be one time measure with regard to time and tenure.

(II) For issuance of an appropriate in the nature of mandamus for commanding and directing the respondent authorities concerned to calculate the



seniority of the petitioners since 29.12.2016 as they have been promoted in the Graduate Trained Pay Scale as per the decision of the District Promotion Committee or to extend the cut-off date upto 31.12.2018 in stead of 31.12.2017, to such teachers, who are post graduate and they have been promoted in graduate trained pay scale completed one year in graduate trained pay scale. On non availability of post graduate qualification of graduate teachers implementation of Nationalized Elementary School Teacher Transfer and Disciplinary Action and Promotion Rule, 2018 will must have its prospective effect.

(III) For issuance of a writ in the nature of prohibition by restraining the authorities concerned from implementation of Memo No.484 dated 31.03.2018, issued under the signature of the Special Secretary of Government, by which Nationalized Elementary School Teacher Transfer and Disciplinary Action and Promotion Rule, 2018 (hereinafter referred to as the 'Rule 2018') the relaxation has been provided under Rule 10, as one time measure violating the specific provisions of Ordinance No.441 dated 31.03.2018, by which it has been mentioned that eligibility and relaxation will be guided as per the direction/guideline of Personnel Administrative Reforms Department and unless and until Personnel Administrative Reforms Department relaxes or issue any such direction, the Special Secretary has violated the specific provisions of 2018



Rule.

(IV) For issuance of an appropriate writ in the nature of mandamus for commanding directing the respondent authorities concerned to relax the cut off date i.e. upto 31.12.2018 in stead of 31.12.2017, as for proper implementation of the Right to Education, in each and every middle school, there must be a Headmaster and as post graduate having qualification of a post graduate and having remained in graduate trained pay scale if not available then to fill up the post of Headmaster from the graduate trained teachers, who have qualification of graduation will be extended up to 31.12.2018.

(V) For issuance of an appropriate writ in the nature of mandamus for commanding directing the respondent authorities concerned that by executive instruction/order i.e. Memo No.484 dated 31.03.2018 issued under the signature of the Special Secretary of Government, cannot be amended or transplanted by executive instruction/order, as the essence of the rule cannot be changed.

The petitioners had filed representation before the Respondent Nos.7 and 8 i.e. The Chairman of the District Promotion Committee-cum-the District Education Officer, Gaya and the District Programme Officer (Establishment), Gaya respectively regarding the redressal of their grievances. The Respondent No.7 is directed to consider the representation of



the petitioners and pass an appropriate order/s in accordance with law within a period of two months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction, the present writ application stands disposed of.

(Sudhir Singh, J)

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