

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7116 of 2015

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1. Aslam Ansari, son of late Samid Ansari, resident of village- Bharhopur, P.S.- Ekma, District- Saran (Chapra), at present posted and working as an Assistant Teacher in Govt. Middle School Saryupar, Anchal- Manjhi, District- Saran (Chapra).
 2. Nasir Ansari, son of Md. Khalil resident of village- Bhalua Bujurg, P.S.- Manjhi, District- Saran (Chapra), at present posted and working as an Assistant Teacher in Government Middle School Hansrajpur, Anchal- Ekma, District- Saran (Chapra).
 3. Alam Ansari, son of late Samid Ansari, resident of village- Bharhopur, P.S.- Ekma, District- Saran (Chapra), at present posted and working as an Assistant Teacher in Government Middle School Saryupar, Anchal- Manjhi, District- Saran (Chapra).
 4. Md. Anis, son of late Md. Hashim, resident of village & P.O.- Taraiya, P.S. & Block Taraiya, District- Saran (Chapra), at present posted and working as an Assistant Teacher in Government Adarsh Middle School Taraiya, Anchal- Taraiya, District- Saran (Chapra)

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Divisional Commissioner, Saran Division, Chapra
5. The District Magistrate, Saran at Chapra.
6. The Deputy Development Commissioner-cum-Chairman, District Education Establishment Committee, Saran.
7. The Regional Deputy Director of Education, Saran Division, Saran at Chapra.
8. The District Education Officer, Saran at Chapra.
9. The District Programme Officer (Establishment), Saran at Chapra.
10. The Block Education Officer, Manjhi, District- Saran
11. The Block Education Officer, Ekma, District- Saran.
12. Rakesh Kumar Mishra, Assistant Teacher, Govt. Upgraded Middle School, Mangolapur Mathiya, Anchal- Jalalpur, District- Saran.
13. Shivnath Singh, Assistant Teacher, Govt. Middle School, Basant Board, Anchal Garkha, District- Saran.
14. Ravindra Kumar Singh, Assistant Teacher, Govt. Middle School, Atarsan, Anchal Ekma, District- Saran.
15. Manoj Prasad, Assistant Teacher, Government Middle School, Kohara, Anchal- Manjhi, District- Saran.
16. Vinod Kumar Singh, Assistant Teacher, Government Middle School Bhulli, Anchal- Ekma, District- Saran.
17. Krishna Pandit, Assistant Teacher, Government Middle School, Taraiya, Anchal- Taraiya, District- Saran.
18. Shambhu Sharan Singh, Assistant Teacher, Government Middle School Shyam Chak, Anchal- Chapra Sadar, District- Saran.
19. Ashok Kumar Mishra, Assistant Teacher, Kanya Primary School Godana More Revilganj, Anchal Revilganj, District- Saran.
20. Awadhesh Kumar Singh, Assistant Teacher, Government Upgraded Middle School Mukrera Revilganj, Anchal - Revilganj, District- Saran.



21. Arun Kumar Singh, Assistant Teacher, Government Middle School Saryupar, Anchal Manjhi, District- Saran.
22. Ramayan Prasad, Assistant Teacher, Govt. Primary School Khajuhan, Anchal Ekma, District- Saran.
23. Ramayan Prasad, Assistant Teacher, Govt. Upgraded Middle School Sheopur, Anchal Sonepur, District- Saran.
24. Md. Salam Ansari, Assistant Teacher, Govt. Primary School Bahuara Patti, Anchal Marhowrah, District- Saran.
25. Madhusudhan Singh, Assistant Teacher, Govt. Upgraded Middle School Sirsa Jalalpur, Anchal- Mashrakh, District- Saran.
26. Binod Kumar Mishra, Assistant Teacher, Government Middle School Masoomganj, Anchal Chapra Sadar, District- Saran.
27. Hari Shankar Prasad Sahi, Assistant Teacher, Government Middle School Baliya, Anchal- Ekma, District- Saran.
28. Sunil Kumar Ray, Assistant Teacher, Government Middle School Mukrera, Anchal Revilganj, District- Saran.
29. Sarweshar Kr. Sharma, Assistant Teacher, Government Middle School Sabalpur West, Anchal- Sonpur, District- Saran.
30. Devendra Kumar Mishra, Assistant Teacher, Government Middle School Kothiya, Anchal- Jalalpur, District- Saran.
31. Kumari Renuka, Assistant Teacher, Govt. Kanya Middle School Harihar Sharan, Anchal- Chapra Sadar, District- Saran.
32. Shailesh Kumar Singh, Assistant Teacher, Government Kanya Middle School Sahpur, Anchal- Sonepur, District- Saran.
33. Rajesh Kumar Mishra, Assistant Teacher, Government Middle School Turkwalia Anchal Chapra Sadar, District- Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the State : Mr. Mukul Prasad, A.C. to G.P. 18

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 23-07-2018

Heard learned counsel for the petitioners and the State.

2. The petitioners have moved the Court for the following reliefs:

“(i) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities concerned to implement the order of the Regional Deputy Director of Education, Saran Division, Chapra issued vide memo no. 367 dated 06.06.2014 and memo no. 368 dated 06.06.2014 by which he has directed for providing



graduate trained pay scale to the petitioners from the due date of their entitlement.

*(ii) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities concerned to implement the order of the Regional Deputy Director of Education, Saran Division, Chapra forthwith issued vide memo no. 368 dated 06.06.2014 in the case of the petitioner nos. 1 to 3 and vide memo no. 369 dated 06.06.2014 in the case of petitioner 4, as per the direction of this Hon'ble High Court passed in CWJC No. 21635/2013 (**Alam Ansari & Ors. Vs. the State of Bihar & Ors.**) and CWJC No. 25437/2013 (**Md. Anis vs. the State of Bihar & Ors.**) by which the Regional Deputy Director of Education, Saran Division, Chapra has passed the reasoned order.*

(iii) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities concerned to provide graduate trained pay scale and monetary benefits from the due date of their entitlement since when similarly situated teachers have been promoted in graduate trained pay scale, as per the Bihar Nationalized Elementary Schools Teachers Promotion Rules, 2011 (hereinafter referred to as 'the Promotion Rules, 2011') and Bihar Taken Over Elementary School Teacher's Promotion Rules, 1993 has been repealed since 01.09.2011.

(iv) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case."

3. The petitioners no. 1 to 3, had initially moved the Court in C.W.J.C. No. 21635 of 2013, which was permitted to be withdrawn by order dated 13.01.2014, in order to enable the petitioners to press their pending appeal before the Regional Deputy Director of Education, Saran and petitioner no. 4 had also filed



C.W.J.C. No. 25437 of 2013, which was disposed off in similar terms by order dated 21.01.2014.

4. Pursuant thereto, the respondent no. 7 has passed order contained in Memo No. 368 dated 06.06.2014, by which he has upheld the contention of the petitioners that their case needed to be reconsidered but because of the embargo of the State Government against any promotion, no positive direction has been passed.

5. Learned counsel for the petitioners submitted that the said stand of the respondent no. 7 is erroneous, for a right which has accrued under the Statute cannot be taken away by way of temporary embargo upon consideration and grant of promotion. Further, he submitted that identical matter has been decided by a co-ordinate Bench of this Court by order dated 27.03.2018, in C.W.J.C. No. 5109 of 2016, in the case of **Bharat Lal and Ors. vs. The State of Bihar & Ors.** He submitted that similar direction be issued in the present case also.

6. Learned counsel for the State does not oppose the prayer and in fact very fairly submitted that the present matter is similar to the case of **Bharat Lal and Ors.** (supra).

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ petition stands disposed off in terms of the order dated 27.03.2018



passed in C.W.J.C. No. 5109 of 2016. The direction in the said case contained in the second last paragraph shall also apply in the case of the present petitioners.

8. It is indicated that the concerned respondents, as has been submitted by learned counsel for the petitioners, being respondents no. 8 and 9, shall ensure compliance of the order expeditiously and within the time frame indicated by the Court in the order in terms of which the present writ petition is being disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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