

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10443 of 2016

1. Veena Kumari, wife of late Chandeshwar Prasad Singh, resident of village Khajwatta, P.S. Bidupur, district Vaishali
2. Anil Kumar, son of late Ram Vilas Singh, Village Hardaspur, P.S. Raja Paka, district Vaishali ... Petitioners

Versus

1. The State Of Bihar through Principal Secretary, Department of Education, Bihar, Patna
2. The Director, Primary Education, Bihar, Patna
3. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur
4. The District Magistrate, Vaishali
5. The District Education Officer, Vaishali
6. The District Programme Officer (Establishment), Vaishali
7. The District Accounts Officer, Vaishali ... Respondents

Appearance :

For the Petitioners : Mr. Binod Kumar. Adv.
For the Respondents : Mr. Avinash Shekhar, AC to SC VI

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 19-04-2018 Heard the learned counsel for the petitioners and the learned counsel appearing for the State.

Learned counsel for the petitioners submits that the petitioners and respondents are in agreement that the case of the petitioners is covered by the decision of the State Government, contained in Memo No. 12, dated 05.01.2015. Learned counsel for the petitioners submits that the respondents may be directed to decide the claims of the petitioners in terms of the said Memo of the State Government.

Learned counsel for the State submits that in view of the counter affidavit of respondent no. 5, they are not a position to take authoritative stand in the matter. The Court feels it appropriate to comment that respondents cannot take the plea that the said Memo/Resolution is not applicable for deciding the



case of the petitioners. The respondents have issued Memo No. 12, dated 05.01.2015, for deciding the claim of the petitioners alike.

In the counter affidavit there is no whisper that Memo No. 12, dated 05.01.2015, is now obsolete and it has been replaced by another Resolution. The law, in this regard, is well settled by **Justice Frankfurter** in the case of **Vittarelli Vrs Seaton** reported in **(1959) 359 US 535**, which was followed by a long line of the judgment of the Apex Court, including judgment in the case of **Ramana Dayaram Shetty Vrs. International Airport Authority of India & Ors.** reported in **A.I.R. 1979 S.C., 1628**. The respondents are obliged to follow the standard which they have indicated to follow in the matter of their decision making, if they depart they can depart only at the pain of invalidation as held by the Apex Court.

In the aforesaid circumstances, the respondents are directed to examine the claim of the petitioners for trained scale notionally with effect from 05.09.1999 to 30.09.2003, in the light of Memo No. 296, dated 16.01.2015, as enclosed by the respondents vide Annexure R5/2.

The respondent no. 7, the District Accounts Officer, Vaishali at Hajipur, is required to decide strictly in accordance with the Memo No. 12, dated 05.01.2015, within a maximum period of sixty days, from the date of receipt/production of this



order.

With this direction, this writ application stands
disposed off.

(Anil Kumar Upadhyay, J)

Shamshad/-

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