

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17284 of 2011

=====

Smt.Renu Kumari D/O Shri Ram Dular Sharma R/O Pandarak, P.S.-
Pandarak, Distt.-Patna

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary Govt. Of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Bihar, Patna
3. The Director, Secondary Education Bihar, Patna
4. The District Magistrate, Patna
5. The Gegendal Deputy Director Of Education, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 18812 of 2011

=====

Annapurna Kumari Wife Of Madhusudan Prasad Resident Of Village & P.S.-
Pandarak, District - Patna

... .. Petitioner/S

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Bihar, Patna
3. The Director, Secondary Education, Bihar, Patna
4. The District Magistrate, Patna
5. The Regional Deputy Director Of Education, Patna

... .. Respondent/s

=====

Appearance :

(In Civil Writ Jurisdiction Case No. 17284 of 2011)

For the Petitioner/s : Mr. Sidharth Harsh, Advocate

For the Respondent/s : Mr. Sanjay Prasad, AC to AAG-7

(In Civil Writ Jurisdiction Case No. 18812 of 2011)

For the Petitioner/s : Mr. Sidharth Harsh, Advocate

For the Respondent/s : Mr. Sanjay Prasad, AC to AAG-7

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 14-09-2018

Heard Mr. Sidharth Harsh, learned counsel for the

petitioners and learned counsel appearing on behalf of the State.



2. Mr. Sidharth Harsh, learned counsel appearing on behalf of the petitioners concedes to the effect that the issue of recognition of the teachers training is unsustainable in view of the decision of this Court in C.W.J.C. No. 17064 of 2011 (Priya Ranjan vs. The State of Bihar & Ors.). He submitted that notwithstanding the lack of validity of the training certificate from Sister Nivedita Teachers Training College, Calcutta, the case of the petitioners deserves consideration in view of the fact that the respondents themselves have taken a decision to consider the case for appointment of untrained teachers provided there exist vacancy for appointment of untrained teachers in the erstwhile project school. He also submitted that the action of the respondents in rejecting the claim of the petitioners holding that the appointment of the petitioners after cut off date is misconceived.

3. Referring to letter no. 142 dated 23.02.1985 he submits that in terms of policy decision the State Government the case of the petitioners for absorption of service has to be considered treating the cut off date the decision of the State Government on the basis of factual selection of the school under the project scheme. He submitted that in both the writ applications the school in question was taken over as project



school by order of the State Government dated 19.2.2009 and as such the cut off date in relation to the school in question would be 19.2.2009 and rejecting the claim of the petitioners on the ground that the petitioners were appointed subsequent to the cut off date, is totally misconceived. The respondents have arbitrarily fixed 4.2.1989 as cut off date.

4. Mr. Sidharth Harsh, with reference to judgment of the Full Bench submits that the cut off date in the instant case should be treated as 19.2.2009.

5. On consideration of the letter no. 142 dated 23.02.1985 it would be evident that policy decision was taken how to select project school in all 300 blocks and pursuant to the decision, the respondents were required to constitute a committee for scrutiny and thereafter, based on such report the District Magistrate was required to recommend for taking appropriate decision considering the aforesaid fact that only cut off date of the school in question is 19.2.2009 and not 1989.

6. In view of the above, the writ petitions are allowed. The order contained in Annexure-8 and 10 of C.W.J.C. No. 17284 of 2011 and C.W.J.C. No. 18812 of 2011 is quashed. The matter is remitted to the Director, Secondary Education, Patna to examine afresh the claim of the petitioners for



recognition of the service treating the cut off date as 19.2.2009 instead of 1989.

7. In the event, the vacancy was available and against the available vacancy the petitioners were appointed before 19.2.2009, the respondents have to consider the case of the petitioners for grant of approval of the service of assistant teachers(untrained) in the project school.

8. Final decision in this regard may be taken by the respondent within a maximum period of four months from the date of receipt/production of a copy of this order.

9. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.09.2018
Transmission Date	

