

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14045 of 2014

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Bijendra Paswan Son of Late Budhan Paswan Resident of village -
Musharnia, P.S. Saur Bazr, District - Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Govt. of Bihar, Patna
2. The Director, Primary Education, Department of Human Resources Development, Govt. of Bihar, Patna
3. The Regional Deputy Director of Education, Koshi Division, Saharsa
4. The District Education officer, Saharsa
5. The District Programme Officer (Establishment), Saharsa
6. The Block Education Officer, Saur Bazar, District Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr. Ajay Bihari Sinha, G.A.-8

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 09-07-2018

Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Petitioner has filed the present writ application
for a direction to the respondents to consider the case of the
petitioner for grant of graduate trained scale and promotion on
the post of Head Master in terms of 1993 Promotion Rules
followed by 2011 promotion rules.

3. On behalf of the respondent, a counter affidavit
has been filed in the present writ application. In para 8 and 9 the
following stand has been taken:-

“8. That it is submitted that the petitioner



being a member of Scheduled Caste community deserves promotion as per reservation in promotion according to Reservation Rule Ordinance No. 1991 (Ordinance-3-1991, Rule-12) but the same could not be given to the petitioner due to inadvertence by the then authority but now at present there is restriction vide Memo No. 11218 dated 12.08.2014 issued by General Administration Department whereby it has been directed that till further orders all the meetings of Departmental Promotion Committee shall remain stayed till further orders.

9. That it is submitted that vide letter No. 04 10-2010 issued under the signature of the Director, Primary Education restriction has been imposed on giving promotion with retrospective effect and hence due to aforementioned restrictions the petitioner's claim is not being considered from back date."

4. The court failed to understand the attitude of the respondents in harping on the letter of General Administrative Department regarding ban on holding DPC for grant of promotion.

5. The matter as to ban on DPC is now no more impediment as the General Administrative Department has recalled letter dated 12.8.2014.

6. In view of the statement made in para 8 and 9 – the respondents are obliged to grant consequential benefit as they have admitted that the petitioner was wrongly excluded in the matter of grant of promotion, the respondents authorities are required to adopt corrective measure and rectify the mistake. If



no decision was taken with regard to correction and the action of the respondents till date, the respondents are required to adopt corrective measure and grant the petitioner benefit of promotion from the date juniors of the petitioner have been granted such benefit. The corrective measure in this regard must be taken by the respondents within a maximum period of sixty days from the date of receipt/production of a copy of this order.

7. It is needless to state here that respondents are required to work out of the entitlement of the consequential benefit to the petitioner. They are also required to grant consequential monetary benefit and also required to consider the case of petitioner for further promotion. The respondents are granted further one month time for for grant of monetary benefit and consequential benefit of consideration for promotion on account of seniority.

8. With the aforesaid, with petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.07.2018
Transmission Date	

