

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13825 of 2014

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Vijay Kumar, son of Mutukdhari Rai, resident of village Basatpur P.O. and
P.S. Dighawara, and District Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Ministry of Human Resources Government of Bihar, Bailey Road, Patna
2. The Director, Primary Education, Department of Human Resources, Government of Bihar, Bailey Road, Patna
3. The Deputy Director, Primary Education, Department of Human Resources, Government of Bihar, Bailey Road, Patna
4. The District Programme Officer, Chapra, Saran
5. The Block Education Extension Officer at Sonapur, P.S. Sonapur, District Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sinha, Advocate
For the Respondent/s : Mr. A K Rastogi, AAG 10

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 10-09-2018

Heard learned counsel for the petitioner and learned
counsel appearing for the State.

The present writ petition was filed way back on
11.08.2014 after service of advance copy to the office of the
learned Advocate General. More than four years have been elapsed
but no counter affidavit has been filed on behalf of the
respondents.

The grievance of the petitioner in the present writ
petition is non-inclusion of his name in the gradation list although
juniors to the petitioner have been included in the gradation list.



Learned counsel submits that on account of lapse on the part of the respondents, petitioner's name was not included in the gradation list and as such the petitioner is adversely affected by non-inclusion of his name in the gradation list.

Learned counsel appearing on behalf of the State submits that he may be granted time to file counter affidavit.

The present case requires verification of records at the level of the respondents themselves. There is no question of law involved in this case warranting any adjudication. Promotion of the teachers are governed by statutory rules, like 1993 Promotion Rules and subsequent 2011 Promotion Rules and as such it is the obligation of the respondents to consider the case of all eligible teachers in accordance with their own statutory rules. If they fail in discharge of their responsibility they cannot be allowed to take advantage of denying the benefit of promotion to those who are otherwise eligible in terms of 1993 Promotion Rules. Since no counter affidavit in the present case even after four years, the Court is constrained to dispose of the writ petition with a direction to the respondents to examine the claim of the petitioner in accordance with the 1993 Promotion Rules and subsequent 2011 Promotion Rules and take appropriate decision on the claim of the petitioner for grant of promotion, if not already taken, within a



maximum period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

mrl./-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.09.2018
Transmission Date	N.A.

