

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21888 of 2014

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Hari Narayan Bhatt S/o- Shri Narayan Bhatt, R/o Village+PO- Manithau, P.S-
Dumra, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna
2. The Director, Primary Education, Govt. of Bihar, Patna
3. The Block Education Officer, Sitamarhi, District - Sitamarhi
4. The District Programme Officer (Establishment) Sitamarhi, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra
For the Respondent/s : Mr. Gp32-Harish Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 11-09-2018 Heard Mr. Sarda Nand Mishra, learned counsel

appearing on behalf of the petitioner and Mr. Harish Kumar,

learned counsel appearing on behalf of the State.

The claim of the petitioner for grant of second ACP
was rejected on the ground that second ACP is available if
individual is continuing as teacher after 01.09.2011.

The deliberation of the promotion committee is based
on its construction of ACP rule. In fact, instead of considering
the case under ACP rules 2003, the respondents have
considered the case of the petitioner under MACP rule and as
such on misconception of fact and law, the claim of the
petitioner was rejected.



Since ACP rule 2003 is applicable with effect from 09.08.1999 and under the same ACP is available on completion of 12 years and 24 years if individual is otherwise qualified for grant of promotion but due to non-availability of the promotional avenues individual is stagnating.

From perusal of Annexure-A, it appears that the respondents have misconstrued the scheme of ACP rules 2003 and as such wrongly rejected the claim of the petitioner. The decision of the promotion committee dated 22.6.2014 rejecting the claim of the petitioner for grant of second ACP is unsustainable on fact as well as on law. It is accordingly, quashed.

The respondents are directed to re-examine claim of the petitioner for grant of second ACP in terms of 2003 ACP rules and pass appropriate fresh order within a maximum period of four months from the date of receipt/production of a copy of this order with all consequential benefits.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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