

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12280 of 2012

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1. Bipin Kumar Sharma Son of Late Ram Ashmaran Sharma Resident of Village & P.O.- Chapra Megh P.S.- Mushahari District- Muzaffarpur
 2. Md. Shamsul Hasan Son of Late Abdus Subhan Resident of Village- Fatima Chak P.S.- Sheohar, District- Sheohar
 3. Paras Nath Roy Son of Late Nawuddi Rai Resident of Village & P.O.- Dakshini Dhamaun P.S.- Patori District- Samastipur
 4. Umesh Prasad Gupta Son of Late Gopal Prasad Gupta Resident of Village- Janakpur Road (Pupri) P.S.- Pupri District- Sitamarhi
 5. Hare Ram Mahto Son of Late Rampal Mahto Resident of Mohalla- Siddharth Pooram Atardah P.S.- Sadar District- Muzaffarpur
 6. Satya Narayan Sahni Son of Late Baldeo Prasad Sahni Resident of Village & P.O.- Koiria Pipra P.S.- Parihar District- Samastipur
 7. Sitaram Sah Son of Late Ram Lakhan Sah Resident of Village & P.O.- Tikauli P.S.- Saidpur District- Sitamarhi
 8. Upendra Thakur Son of Late Surya Narayan Thakur Resident of Mohalla- Anand Marg Atardah P.S.- Sadar District- Muzaffarpur
 9. Leela Sinha Wife of Viddya Nand Sharma Resident of Mohalla- Shivpuri P.S.- Sadar District- Muzaffarpur
 10. Usha Ojha Wife of Satyendra Thakur Resident of Mohalla- Khabra P.S.- Sadar District- Muzaffarpur
 11. Smt. Viddya Das Wife of Abhay Shanker Das Resident of Village- Lausa P.S.- Jhanjharpur District- Madhubani
 12. Ram Chandra Mahto Son of Late Pulton Mahto Resident of Village & P.O.- Kohbarwa P.S.- Sonbarsa District- Sitamarhi
 13. Amar Nath Singh Son of Late Raj Narayan Singh Resident of Village & P.O.- Kamla, P.S.- Ujjyarpur District- Samastipur
 14. Akhilesh Jha Son of Late Ratneshwar Jha Resident of Mohalla- Baghmusa P.S.- Town Hajipur District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner-Cum-Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Secretary, Personal and Administrative Reforms Department, Government of Bihar, Patna
4. The Director Secondary Education, Government of Bihar, Patna
5. The Regional Deputy Director of Education, Tirhut Division Muzaffarpur
6. The District Education officer, Muzaffarpur District- Muzaffarpur
7. The District Program officer, Muzaffarpur District- Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar, Advocate

For the Respondent/s : Mr. Prabhakar Jha, GP-27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 10-09-2018



Heard learned counsel for the petitioners and State.

2. Despite service of notice on large number of respondents, no one appeared to assist the Court.

3. Learned counsel appearing on behalf of the petitioners submits that the petitioners, who were appointed in between 1982 to 1995, were ignored by the respondents in the process of preparation of gradation list. The details of the entry in service of the petitioners are mentioned in para 4 of the writ application.

4. Mr. Akhtar, learned counsel appearing on behalf of the petitioners, referring to Annexure-6 submits that the gradation contains the list of teachers having Post Graduate qualification. According to the petitioners, they are Post-Graduate and in the gradation list they ought to have been placed in accordance with the date of appointment, which the basis of preparation of gradation list (Annexure-6), but unfortunately none of the petitioners figure in the gradation list and such omission on the part of the respondents adversely affect the prospect of the petitioners.

5. The present writ application has been filed on 12.07.2012. We are in 2018, but after six years, no counter affidavit has been filed.

6. Under the aforesaid circumstances, when the Court finds prima facie materials to hold that exclusion of the petitioner



from the gradation list is without any justification, the writ application in the absence of counter affidavit is disposed of with a direction to the Director, Secondary Education, Government of Bihar, Patna to include the name of the petitioners at appropriate place in the gradation list in accordance with the modality, the respondents have followed in the preparation of gradation list (Annexure-6), which appears to be the date of entry in the service.

7. Corrective measures on the part of the respondent Director, Secondary Education, Government of Bihar, Patna is required to be done within a period of four months from the date of receipt/production of a copy of this order.

8. Since the defect in preparation of gradation list is noticed by the Court. The defect is fundamental in nature, the Court directs the Director, Secondary Education, Government of Bihar, Patna to adopt corrective measures.

9. It is needless to state here that the omission on the part of the respondents in preparation of gradation list will not be a ground to undertake roving enquiry by providing opportunity of hearing to the persons below in the gradation list, whom may be adversely affected on account of inclusion of the petitioners at the appropriate place. If the corrective measures are not completed within the time frame, the respondents have to stay the follow up action in



terms of decision contained in Annexure-6, until the corrective measures is taken and petitioners are placed in the gradation list at the appropriate place.

10. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2018
Transmission Date	

