

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24186 of 2013

1. Kumari Shruti Rai D/O Late Ramjee Rai C/O Rai Ranvijay Deo,
Resident Of Mohalla- Kashi Bazar, (Swami Sahjanand Sarawati
Colony), P.O- Chpra, P.S- Bhagwan Bazar, District- Saran, Pin-
841301
2. Kumari Vinitirai D/O Ramjee Rai C/O Rai Ranvijay Deo,
Resident Of Mohalla- Kashi Bazar, (Swami Sahjanand Sarawati
Colony), P.O- Chpra, P.S- Bhagwan Bazar, District- Saran, Pin-
841301

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Govt. Of Bihar, Patna.
3. The Director, Secondary Education, Govt. Of Bihar, Patna.
4. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar
Parishad, Siwan.
5. The Member Secretary, Uchch Madhyamik Shikshak Niyojan Samiti, Zila
Parishad, Siwan.
6. The Member Secretary, Uchcha M Adhyamik Shikshak Niyojan Samiti,
Nagar Panchayat, Maharajganj, Siwan.
7. The Member Secretary, Uchcha Madhyamik Niyojan Samiti, Nagar
Panchayat, Mairwa, Siwan.
8. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar
Panchayat Revelganj, Siwan.
9. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar
Panchayat Dighwara, Siwan.
10. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar
Panchayat Sonapur, Siwan
11. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar
Prasishad Gopalganj
12. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Zila
Goriorhad Gopalganj.



13. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar Parishad Hazipur, Vaishali.
14. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar Parishad, Hazipur
15. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Patna.
16. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Patna.
17. The Member Secretary, Uchcha Madhyamik Shikshak Niyojan Samiti, Nagar Nigam, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Shashi Shekhar Tiwary
For the State	:	Mr. Nutan Kumari Sharma, AC to GA-1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 31-10-2018

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

2. Mr. Shivendra Kishore, learned senior counsel appearing on behalf of the petitioners would submit that for appointment of Computer Teacher respondents have relaxed the requirement of passing B.Ed. Examination vide Annexure-3. However, there is requirement that one has to clear Teacher Eligibility Test in order to become eligible for appointment as Teacher. He submits that unless the regular examination of TET is conducted by the respondents, the question of appointment of teacher would be illusory as only TET pass candidate is eligible for appointment and thus advertisement, selection process, etc. are only illusory, imaginary and not designed to appoint teachers in



absence of holding TET examination as no one can acquire eligibility and become eligible for appointment in the absence of passing TET.

3. From the counter affidavit, the Court does not find satisfactory explanation why the respondents have failed to conduct eligibility test regularly.

4. Mr. Shivendra Kishore, learned senior counsel appearing on behalf of the petitioners submits that by not holding TET examination the respondents are either extending favour to a class of people who had, at the relevant time, appeared in the TET examination and acquired eligibility for appointment or they are not interested for appointment. In either of the situation, the action of the respondents is illegal and arbitrary. He submits that in the absence of holding TET examination the appointment would not be possible as appointment is only made of the candidates who acquired TET. Thus, it is obligatory on the part of the respondents to regularly conduct examination so that aspirants for appointment as Computer Teacher or other teachers may acquire eligibility and apply for appointment.

5. Mr. Shivendra Kishore, learned senior counsel appearing on behalf of the petitioners, with reference to the advertisement dated 18th July, 2013, contained in Annexure-4,



submitted that advertisement was published for appointment of teachers including Computer Teachers but no examination was conducted by the respondents for teachers eligibility test and as such the petitioners who could have appeared in the TET, despite holding of the requisite qualification, were rendered not qualified on account of non-passing of TET. He submits that the candidature of the petitioners was rejected only on the ground of non-clearance of TET and as such the action of the respondents is arbitrary as they are neither holding examination of TET nor considering the candidature of the petitioners for appointment as Computer Teacher.

6. Mr. Shivendra Kishore, learned senior counsel appearing on behalf of the petitioners has highlighted that the last examination of TET was conducted by the respondents in 2011 and thus the candidates who acquired the eligibility shall lose the benefit of eligibility after 2018 and for selection process in 2019 there shall be no eligible candidate available for appointment as Teacher in terms of the amendment in the Rule and as such it is obligatory on the part of the State to address the issue of holding Teachers Eligibility Test at the earliest so that future selection process may not be defeated on account of lack of eligible candidate, more so to enable fresh candidate to acquire eligibility



and compete for appointment against the post advertised for appointment as Teacher.

7. The Court is not in a position to issue any positive direction for consideration of the case of the petitioners against the vacancy advertised vide Annexure-4 dated 18th July, 2013 as neither the petitioners nor the respondents have made any specific statement as to the status of the selection process undertaken pursuant to Annexure-4. However, in the peculiar facts and circumstances of this case, the Court is of the considered view that for appointment of teacher if TET is must then it is obligatory on the part of the respondents to conduct TET regularly so that the petitioners and other aspirants for appointment as teacher including computer teacher may acquire eligibility and apply in future vacancy for appointment as Computer Teacher.

8. Accordingly, the writ petition is disposed of with a direction to the Principal Secretary, Education Department to formalise the scheme for holding TET examination before undertaking any selection process for appointment of teachers so that aspirants for appointment may acquire eligibility and apply for appointment as Computer Teacher or other teachers in terms of the Recruitment Rules. Necessary decision with regard to formalization of definite scheme of holding TET, if not every year,



at least before holding selection process, must be conducted by the State so that aspirants for appointment as teacher may acquire eligibility and on acquiring eligibility may apply for appointment so that right to consideration envisaged under Article 16 of the Constitution of India may not become illusionary for such candidate who is otherwise eligible for appointment but not holding TET, they are not considered for appointment.

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

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.11.2018
Transmission Date	

