

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11528 of 2016

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1. Ummi Zeenat D/o Jamaluddin R/o village - Dhusmal, P.S. Angarh, District Purnia
 2. Zakirun Nisha D/o Md. Sajid Alam R/o village - Dhipi Tola Pokharia, P.S. Rauta, District - Purnia
 3. Shabana Azami D/o Jamaluddin R/o Village - Arhal, P.S. Rauta, District - Purnia
 4. Nazmi W/o Md. Zakir R/o village - Murgi Tola Khari, P.S. Baisa, District - Purnia
 5. Azmat Ara D/o Md. Kamaluddin R/o village - Chilhani, P.S. Rauta, District - Purnia
 6. Zinatun Nisa W/o Afzal Hussain R/o village - Peergachhi, P.S. Angarh, District - Purnia
 7. Shahedah Khatoon W/o Md. Zubair Alam R/o village - Pipaltora, P.S. Angarh, District - Purnia
 8. Shabnam Ara W/o Abdul Quaiyum R/o village - Sirisi, P.S. Rauta, District - Purnia

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary Department of Education, Govt. of Bihar, Patna
2. The Director Primary Education, Department of Education, Govt. of Bihar, Patna
3. The Director SCERT, Bihar, Patna
4. The District Education officer, Purnia

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Firoz Ahmad

For the Respondent/s : Mr. SC9- RAJ NANDAN PRASAD

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-03-2018

This writ petition has been filed challenging the provisions of Rule 12(V) of the Bihar Panchayat Prarambhik Shikshak (Niyojan evam Seva Shart) (Sansodhan) Rule, 2015 wherein for the purpose of clearing the Teacher Evaluation Test (in short the “TET”) three opportunities are being granted.



Challenging the provisions only granting three opportunities, the writ petition in question has been filed and it is prayed that the amended provision made by resolution no. 7 dated 03.07.2009 be declared as *ultra vires*. However, during the course of hearing, Sri Vikash Kumar, learned Government Advocate informs us that the matter has been put to rest and the question involved in the writ petition has been decided by the Hon'ble Supreme Court in the case of **Nirmala Kumari and others and State of Bihar and others** reported in **2017(4) PLJR SC 356** and in para 6, 7 and 8 in the aforesaid judgment, the Hon'ble Supreme Court has issued the following directions:

“6. In L.Muthu Kumar and Another Vs. State of Tamil Nadu and Others reported in (2000) 7 SCC 618, this Court has referred to the need for appointment of qualified and trained teachers, in particular, at the primary stage. This Court, in many cases, has addressed the need for adequate training. The operative portion of the Judgment is reproduced as under:-

“14..... We are of the considered opinion that before teachers are allowed to teach innocent children, they must receive appropriate and adequate training in a recognised training institute satisfying the prescribed norms, otherwise the standard of education and careers of children will be jeopardised. In most



civilised and advanced countries, the job of a teacher in a primary school is considered an important and crucial one because moulding of young minds begins in primary schools. Allowing ill-trained teachers coming out of derecognised or unrecognised institutes or licensing them to teach children of an impressionable age, contrary to the norms prescribed, will be detrimental to the interest of the nation itself in the sense that in the process of building a great nation, teachers and educational institutions also play a vital role. In cases like these, interest of individuals cannot be placed above or preferred to the larger public interest. ...”

7. Having heard both the parties, we are of the view that in order to give a quietus to the whole issue, it is only appropriate that the State is directed to subject the teachers, who have failed in the evaluation test for the third time, to a further training of six months. At the end of such six months, they shall be subjected to an appropriate evaluation test, prescribing minimum marks. Passing the evaluation test thus conducted, on completion of the training, would mean the successful completion of the training.

8. It is made clear that if any of the candidates fail to successfully complete the training as



above, it will be open to the State to remove them from the service.”

Keeping in view the aforesaid submission made by Sri Vikash Kumar, learned Advocate and the directions issued by the Hon’ble Supreme Court hereinabove, we are of the considered view that now no further indulgence into the matter calls for, the State is now required to proceed in the matter as already directed by the Hon’ble Supreme Court and grant benefit, if any, to the petitioners based on the aforesaid direction.

The Writ Petition stands disposed off with the aforesaid direction.

(Rajendra Menon, C.J.)

(Rajeev Ranjan Prasad, J.)

Arvind/Rajeev

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2018
Transmission Date	NA

