

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18542 of 2016

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1. Fulkant Chaudhary, son of Late Jageshwar Chaudhary, Resident of village- Rajwara, P.O. Chakpakar, P.S. Tajpur, District- Samastipur, presently working as Incharge Headmaster, Up-graded Middle School, Hasanpur Kaiju, Anchal- Tajpur, District- Samastipur.
 2. Kumari Deo Sundari Rai, wife of Sri Bishwanath Rai, Resident of village- Kasbe Ahar, P.O. and P.S. Tajpur, District- Samastipur, presently working as Incharge Headmistress, Up-graded Middle School, Asadhi, Anchal- Tajpur, District- Samastipur.
 3. Sachchidanand Kumar, son of Late Maheshwar Thakur, Resident of village and P.O. Karua, P.S. Chak Mehshi, District- Samastipur, presently working as Incharge Headmaster, Up-graded Middle School, Madhopur Bhuwal, Anchal- Kalyanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga.
5. The District Magistrate, Samastipur, District- Samastipur.
6. The District Education Officer, Samastipur, District- Samastipur.
7. The District Programme Officer (Establishment), Samastipur, District- Samastipur.
8. The District Programme Officer (Secondary), Samastipur, District- Samastipur.
9. The Senior Deputy Collector, Samastipur, District- Samastipur.
10. The Additional Collector, Samastipur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate
For the Respondent/s : Mr. Prabhakar Jha-G.P.-27

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 03-05-2018

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

Petitioners have approached this Court against the dual
standard in the matter of grant of promotion. This writ petition was



filed on 18.11.2016, after service of two advance copy to the office of Advocate General, yet no counter affidavit has been filed. On 12.01.2018 four weeks time was granted to the respondents to file counter affidavit; nearly four months have passed but they have not chosen to file counter affidavit. Such reluctance of the respondents in the matter of filing counter affidavit is telling tale of the attitude of the State in litigation management as most of the cases are pending before this Court on account of inaction on the part of the respondent-authorities. In the present case petitioners have specifically stated in paragraph 38 that altogether 53 teachers were granted promotion to the post of Head Master, who obtained Post Graduate degree as a regular candidate, but in the case of the petitioners, they are adopting different yardstick. The short issue, which is required to be decided by the respondents at first instance have engaged this Court on different dates for their lapse, and nearly 1 year and 6 months have passed, the writ petition is still pending awaiting the response of the respondents and due to their failure to file counter affidavit, the writ petition remained pending.

Learned counsel for the petitioners has drawn the attention of this Court to the decision rendered by a co-ordinate Bench of this Court in C.W.J.C. No. 10941 of 201 dated



07.08.2011, wherein similar matter was considered and direction was issued.

The respondents in the present case are not extending any cooperation in disposal of the cases. It appears that they are enjoying sadistic pleasure in not filing the counter affidavit as a result thereof the petitioners are left in lurch.

In the totality of the fact situation, when the respondents have to decide the issue and adopt corrective measures, the Court directs the respondent-District Education Officer, Samastipur to examine the claim of the petitioners and if it is found that the case of the petitioners is similar to the similarly circumstanced other candidates, whose names figured in Annexure-20, extend the same benefit to these petitioners also. If it is found that 53 candidate were granted promotion illegally, respondents may take corrective measures after providing opportunity to the persons concerned, who have been granted such promotion.

Entire exercise, either to grant promotion like similarly circumstanced 53 teachers or to nullify their decision by adopting corrective measures after giving opportunity of hearing to the persons named in Annexure-20, must be completed within a maximum period of 60 days from the dated receipt/production of copy of this order.



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

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04-05-2018
Transmission Date	

