

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.505 of 2018

In
Civil Writ Jurisdiction Case No.102 of 2018

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1. Krishna Prasad Singh S/o Late Faujedar Singh Resident of Village - Pandeypur, Post - Neura, Bihta, Dist. - Patna, Presently Pradesh Sangathan Mantri Sah (Cum) Pradesh Pravakta, Bihar Arajkiya Prathmik Shikshak Sangharsh Samittee.
 2. Vindeshwar Singh S/o Late Ramesh Chandra Singh Resident of Village - Mahinawan Ward No. 15, P.S.+P.o. Maner, Dist - Patna presently Joint Secretary of Samittee.
 3. Upendra Kumar Son of Late Amika Prasad Sinha resident of village - Sauwan, P.S. - Chawdi, Dist. - Nalanda, Present address Maurya Vihar Colony, Transport Nagar, Patna - 800001 Presently Member of Samittee.
 4. Ram Janam Sharma S/o Late Ram Charitar Sharma Resident of Village - Katari, P.O. - Ekbalganj Misarpura, P.S. - Bikram, Dist. - Patna Presently Member of Samittee.

... .. Appellant/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Education Department, New Department, New Secretariat, Patna.
3. The Director of Primary Education, Education Department, New Secretariat, Patna.
4. The Principal Secretary, Financial Department, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajendra Narayan, Sr. Advocate
Mr. Maya Shankar Mishra, Advocate
For the Respondent/s : Mr.



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 09-10-2018

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge dated 09.03.2018, passed in C.W.J.C. No. 102 of 2018, by which the learned Single Judge has dismissed the said petition and has refused to grant any relief as prayed in the petition, the original writ petitioners have preferred the present Letters Patent Appeal under Clause X of the Letters Patent.

2. We have heard learned counsel appearing on behalf of the respective parties at length.

3. At the outset, it is required to be noted that in the original writ petition the original writ petitioners, who were serving in the private schools, submitted that the petitioners' schools ought to have been taken over under the scheme of Bihar Non-Government Elementary Schools (Taking over of control) Act, 1976 and as a consequence of such take over, the teaching and non-teaching employees are entitled to regularization of their services and consequential benefits of payment of salary.

3.1 However, considering the fact that taking over of schools (private schools) by the State Government is in the realm



of policy decision of the State Government, the learned Single Judge dismissed the said petition. Therefore, as such the learned Single Judge rightly rejected the petition. Even otherwise, it is required to be noted that thereafter there are changed circumstances and the policy has been changed and since 1993 itself the State Government took a decision not to take over any school in addition as the State Government introduced a new scheme of appointment of teachers in the name of Panchayat Shikshak and Block Shikshak. It is also required to be noted that if the private schools are taken over by the State Government, who are total 390 elementary schools and all the teaching and non-teaching staff are required to be paid the salary by the State Government, the State Government would be burdened with the additional liability. Therefore, a conscious decision has been taken not to take over any school.

4. Learned counsel appearing on behalf of the original writ petitioners is not in a position to satisfy the Court that the respective writ petitioners/teaching and non-teaching staff of the private schools have any vested right to get the private schools taken over by the State Government.

4.1 We are in complete agreement with the view taken by the learned Single Judge.



5. In view of the above and for the reasons stated hereinabove, the present appeal fails and the same deserves to be dismissed and is, accordingly, dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

K.C.Jha/-

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