

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8170 of 2018

1. Abhilasha Kumari, Wife of Nandan Thakur, Resident of Village- Gaura, Police Station- Teghra, District- Begusarai.
2. Kumari Renu, Wife of Brahmdeo Yadav, Resident of Village- Parera, Police Station- Garhpura, District- Begusarai.
3. Asha Kumari, wife of Ram Jee Singh, Resident of Village- Rashidpur, Police Station- Sadanandpur, District- Begusarai.
4. Nirmala Gupta, wife of Sarth Sanjeet, Resident of Village- Chantti Road, Police Station- Ratanpur, District- Begusarai
5. Neelam Kumari, Wife of Shambhu Mishra, Resident of Village- Gaura, Police Station- Teghra, District- Begusarai.
6. Khurshid Akhtar, Son of Abdul Rajjak, Resident of Village- Marwari Mohalla, Ward No. 22, Police Station- District- Begusarai.
7. Prabhu Rajak, Son of Jhari Rajak, Resident of village- Sanha Naya Tola Bakhadda, Police Station- Baliya, District- Begusarai.
8. Harshvardhan, Son of Ram Nandan Prasad Singh, Resident of village- Vrindavan, Police Station- Nav Kothi, District- Begusarai.
9. Shashi Kumar Paswan, Son of Tarni Prasad, Resident of Village- Sokhara 02, Ward No. 1, Police Station- Phulwariya, District- Begusarai.
10. Ashok Kumar Gupta, Son of Reshmi Prasad Guta, Resident of Village- Rampur Ghat, Police Station- Khodamanpur, District- Begusarai.
11. Chandra Shekhar Singh, Son of Bhikhari Prasad Singh, Resident of Village- Mahna, Police Station- Barauni, District- Begusarai.
12. Ram Ahlad Thakur, Son of Dinkar Thakur, Resident of Village- Gaura, Police Station- Teghra, District- Begusarai.
13. Vinay Pawan, Son of Geeraj Paswan. Resident of Village- Mohan Amu, Police Station- Muffasil, District- Begusarai.
14. Apurva Kumar, Son of Ram Bahadur Singh, Resident of Village- Sihma Police Station- Matihani, District- Begusarai.
15. Hari Narayan Singh, Son of Ramdeo Singh, Resident of Village- Gorgama, Police Station- Naya Gaon, District- Begusarai.
16. Sunita Kumari, Wife of Arun Singh, Resident of Village- Bihat, Police Station- Barauni, District- Begusarai.
17. Reeta Kumari, Wife of S.N. Sharma, Resident of Village- 212, Phase No. 1A Uttamnagar, West- Delhi.
18. Reena Kumari, Wife of Late Sanjay Singh, Resident of Village- Dularpur, Police Station- Teghra, District- Begusarai.



19. Shyama Kant Prasad, Son of Sita Ram Mahto, Resident of Village- Chakdaddu, Police Station- Kodawandpur, District- Begusarai.
20. Abha Devi, Wife of Sudhandhi Shekhar Thakur, Resident of Village- Maharatpur, Police Station- Muffasil, District- Begusarai.
21. Madan Paswan, Son of Anup Paswan, resident of Village- Sadpur, Police Station- Sahebpur Kamal, District- Begusarai.
22. Ashok Paswan, Son of Chhedi Paswan, Resident of Village- Chhoti Baliya, Police Station- Baliya, District- Begusarai.
23. Arun Kumar Pal, Son of Ram Prasad Pal, Resident of Village- Sonma, Ward No. 5, Police Station- Begusarai, District- Begusarai.
24. Neelam Devi, Wife of Mithilesh Jha, Resident of village- Narayanpur Sami, Ward No. 8, Police Station- Medhus, District- Begusarai.
25. Upendra Prasad, Son of Ram Lakshan Mahto, Resident of Village- Kapal, Ward No. 4, Sindhiya Bujurg, Police Station- Sindhiya Ghat, District- Samastipur.
26. S. Shakeel Yunush, Son of S.M. Habib, Resident of Village- Mungeriganj, Police Station- Begusarai, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The Regional Deputy Director, Munger Division, Munger.
4. The District Education Officer, Begusarai, District- Begusarai.
5. The District Programme Office, District- Begusarai.
6. All the Block Education Officer, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Advocate Mr. Arun Kumar, Advocate Mr. Ram Vinay Pd. Singh, Advocate Mr. Rohit Raj, Advocate
For the Respondent/s	:	Mr. Madhaw Prasad Yadav -GP-23

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.



The present writ petition has been filed for manifold reliefs. Primarily, the petitioners are aggrieved by the action of the respondent, District Education Officer, Begusarai.

Mr. Sandeep Kumar, learned counsel appearing on behalf of the petitioners submits that the transfer order once passed pursuant to the decision of the Committee, of which the District Education Officer was one of the members, the said decision has been superseded not by the Committee but by the District Education Officer, who was only one of the members and as such the decision contained in Annexure-3 is without jurisdiction.

Learned counsel further submits that the petitioners have been transferred from the concerned schools and they have acted upon the order of transfer. Once the order of transfer is acted upon, there is no question of withdrawal or recall of the order, which is now well settled.

Learned counsel further submitted that the posts in the erstwhile schools from where the petitioners have been transferred is no more in existence and the cumulative effect of the aforesaid is that the petitioners would be rendered without post and they may suffer non-payment of salary on account of non-existence of the post.



Considering the aforesaid submissions, the writ petition is disposed of with a direction to the Regional Deputy Director of Education, Munger, Respondent No. 3 to examine whether posts in the erstwhile schools from where the petitioners have been transferred is still existing and if it is found that the posts in the schools are not existing, it shall be obligation of the RDDE to see that the petitioners may not suffer on account of non-availability of the post in the matter of payment of salary. This should be done by the RDDE, Munger if he holds that there is no infirmity in the order recalling the earlier order of the Committee by the District Education Officer, Begusarai.

The RDDE, Munger is directed to take final decision with regard to the posting of the petitioners within a period of a fortnight from the date of receipt/production of a copy of this order. If it is found that the petitioners have joined the respective posts pursuant to the decision of the Committee, then he has to see that the decision which was acted upon, is not open to review or modification or withdrawal in view of the judgment of this Court in the case of *Smt. Jyotsna Kumari v. State of Bihar & ors.: 2000(2) PLJR 332*. In the event it is found that there is no infirmity in the order withdrawing the earlier order of transfer, in that situation the RDDE is required to exercise his discretion to see



that the petitioners are not left without no salary on account of nonavailability of the post.

It goes without saying that the respondents have to ensure salary to the petitioners and they cannot be heard saying that no post was available for payment of salary to the petitioners.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.05.2018
Transmission Date	

