

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21714 of 2014

1. Azmat Hussain S/o Makhдум Hussain R/o village/mohalla-Neelkothi,Dehri-on-Sone,District-Rohtas, Presently working in Utkramit Urdu Madhya Vidyalaya, Jakkhi Bigha,Block DehriRohtas.
2. Surendra Prasad S/o Shri Laxman Sah R/oBhagatganj, P.O.-khudru,Block-Kochas, District-Rohtas, Presently working in Rajkiya Madhya Vidyalaya Gara, Block- Kochas, District Rohtas as Assistant Teacher.
3. Md.Ansari S/o Md.Ismail Ansari R/o village P.O. P.S.-Kuchhila,Block-Kochas, District-Rohtas, Presently working in Rajkiya Kanya Prathmik Vidyalaya,Dighita,Block-Kochas, District Rohtas.
4. Sanjay Kumar S/o Sudama Prasad Ram R/O village-Parasiyah, P.O. P.S. Kochas, District-Rohtas, Presently working in Rajkiya Madhya Vidyalaya, Barhuti kala, Block Kochas, District- Rohtas.
5. Radhe Shyam Pal S/o Late Ram Shakal Pal R/o village-Amheta, P.O.-Barhari, P.S. Kochas, District- Rohtas, Presently working in Rajkiya Madhya Vidyalaya, Kathrai, Block Kochas, District-Rohtas.
6. Om Prakash Gupta S/o Sri Ram Niwas Sah R/O Village-Parsathua, P.O.-Dangri, P.S. Kochas, District Rohtas, Presently working in Rajkiya Prathmik Vidyalaya, Tetariyan, Block Kochas, District-Rohtas.
7. Surendra Kumar Choudhary S/O Shri Krishna Choudhary R/O Village P.O.-Mauhuari, P.S. Kochas, District Rohtas, Presently working in Rajkiya Madhya Vidyalaya, Basdihan,Block Dinara, District-Rohtas.
8. Radha Mohan Choudhary S/O Shri Parsuram Choudhary R/O village-Basdihan Tola, P.O. -Basdihan, Block-Dinara, District-Rohtas,Presently working in Rajkiya Madhya Vidyalaya, Belbaiya,Block Dinara, District-Rohtas.
9. Anugrah Narayan Ram S/O Late Phulchand Ram R/O village P.O. Indore, P.S. Dinara, District-Rohtas, Presently working in Madhya Vidyalaya, Kund, Block-Dinara,District-Rohtas.
10. Suresh Kumar S/O Late Daresh Ram R/O Village-Shahmal Khaira, P.O.-Baltheri, P.S. Kochas, District-Rohtas, Presently working in Utkramit Madhya Vidyalaya, Parsiyan, Block Kochas, District-Rohtas. .
11. Raj Nath Prasad S/O Sarbjeet Ram R/O Village- Bastipur, P.O. Manikpur, P.S. Indrapuri, District-Rohtas, Presently working in Middle School, Baradih, Block-Sasaram, District-Rohtas.
12. Dashrath Prasad Gupta S/O Late Parikha Sah R/O. Village P.O.-Chandanpur,Block-Tilouthu, District-Rohtas,Presently working in Madhya Vidyalaya Dhankatha,Block Sasaram, District-Rohtas.
13. Mahendra Prasad S/O Sri Jagat Choudhgary R/O. Village P.O.Maharajaganj,P.S. Tilouthu, District-Rohtas, Presently working in Prathmik Vidyalaya, Malaon,Block Sasaram, District Rohtas.

... .. Petitioner/s

Versus



1. The State Of Bihar
2. The Director, Primary Education Department, Govt.of Bihar,Patna.
3. The Collector, Rohtas, Sasaram.
4. The Reginal Deputy Director,Patna Division Department of Education, Govt.of Bihar,Patna.
5. The District Education Officer,Rohtas, Sasaram.
6. The District Elementary Teacher Promotion Committee, Rohtas, Sasaram through the District Programme
7. The District Programme Establishment Officer, Rohtas, Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Chhote Lal Mishra
Mrs. Namrata Mishra
Mrs. Archana Jha
For the Respondent/s : Mr. Nadeem Seraj, GP-20

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 07-08-2019 The present writ petition was initially filed for directing the respondents to implement the order passed by the Regional Deputy Director of Education, Patna dated 22.11.2013, in an appeal preferred by the petitioners herein and for further directing the respondents to grant promotion to the petitioners from Matric Trained Scale to the Graduate Trained Scale with effect from 30.07.2012.

2. The learned counsel for the petitioners has submitted that the petitioners herein were granted promotion vide Annexure-4 to the writ petition, which is dated 30.07.2012 and had been approved by the District Promotion Committee, Rohtas at Sasaram. By the said office order dated 30.07.2012,



the petitioners were granted promotion from Matric Trained Scale to the Graduate Trained Scale, however, vide order dated 15.05.2013, which is Annexure-9 to the writ petition, the order of promotion of the petitioners and others dated 30.07.2012 was cancelled. The petitioners are stated to have filed an appeal before the Regional Deputy Director of Education, Patna Division, Patna and the said Appeal is said to have been allowed by an order dated 22.11.2013 and the District Promotion Committee, Rohtas was directed to grant promotion to such teachers whose promotion had been cancelled vide Memo No.1540 dated 15.05.2013, in accordance with the promotion rules /departmental orders.

3.The learned counsel for the petitioners has submitted that since no action was being taken for compliance of the aforesaid order dated 22.11.2013 passed in appeal by the Regional Deputy Director of Education, Patna Division, Patna, the petitioners were constrained to approach this Court by way of the present writ petition, however, in the meantime, the District Promotion Committee by an order dated 31.10.2017 issued an order of promotion of the petitioners from Matric Trained Scale to the Graduate Trained Scale with effect from the date of joining of the said petitioners in the schools mentioned against



their names.

4. The learned counsel for the petitioners has referred to Annexure-14, which is an order dated 27.07.2018, passed by the Regional Deputy Director of Education, Patna Division Patna in an appeal filed by the petitioners against the order passed by the District Promotion Committee dated 31.10.2017 and it is submitted that the Regional Deputy Director of Education, Patna Division, Patna has rejected the appeal of the petitioners only on the ground of pendency of the present writ petition.

5. Per contra, the learned counsel for the respondents has submitted that since the writ petition was pending before this Court, the Regional Deputy Director of Education, Patna Division, Patna could not have taken any decision on account of the matter being sub judice before this Court.

6. Having regard to the submissions made by the learned counsel for the parties, I am of the view that nothing had prevented the Regional Deputy Director of Education, Patna Division, Patna to pass appropriate orders in appeal in view of the statutory powers vested with the Regional Deputy Director of Education, Patna Division, Patna as an appellate authority, hence, the pendency of the present writ petition would



not have been an impediment so far as the adjudication of the lis involved is concerned.

7.For the reasons mentioned hereinabove, the order dated 27.07.2018 passed by the Regional Deputy Director of Education, Patna Division, Patna, as contained in Memo No. 901 is quashed and the Regional Deputy Director of Education, Patna Division, Patna is directed to adjudicate upon the appeal of the petitioners afresh after giving an opportunity of hearing to them.

8.It is needless to state that the petitioners can supplement the averments made in their Appeal by way of filing written statements within a period of twelve weeks from today whereafter, Regional Deputy Director of Education, Patna Division Patna shall give an opportunity of hearing to the petitioners and the other affected parties and pass a final order within a period of eight weeks thereafter.

9.The writ petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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