

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14315 of 2019

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1. Upendar Kumar Nirala Son of Sri Jagdev Prasad Ray, R/O Village and P.O.- Loma, P.s.- Gaighat, District- Muzaffarpur.
 2. Sanjay Kumar Singh, Son of Sri Chandar Singh, R/O Village and P.O.- Loma, P.S.- Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the District Magistrate, Muzaffarpur.
2. The District Education Officer, Muzaffarpur.
3. The District Programme Officer (Establishment), Muzaffarpur.
4. The Mukhia, Gram Panchayat Raj, Loma Prakhand- Gaighat, District- Muzaffarpur.
5. The Panchayat Secretary, Gram Panchayat Raj, Loma Prakhand- Gaighat, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bipin Bihari Singh, Advocate
For the Respondent/s : Mr.Umesh Narayan Dubey, AC to GP 27

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 18-07-2019 Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

The petitioners have filed the present writ petition for a direction to the respondents to consider their case for absorption citing example of one Diwakar Prasad Singh and Ranjit Kumar, who have been favoured by the respondents.

Learned counsel for the petitioners would submit that the State has framed Bihar Litigation Policy, 2011 and Clause 4 (C) of the Litigation Policy applies to all. The State is required to adopt same yardstick in the similar matter. On the strength of



the aforesaid, learned counsel submits that the petitioner is entitled to similar treatment at par with Diwakar Prasad Singh and Ranjit Kumar, who have been favoured by the respondents by retaining them in the job.

The issue of Shiksha Mitra is now a closed chapter. The Full Bench of the Patna High Court has categorically decided this issue in the case of **Kalpana Rani Versus State of Bihar and Ors. : PLJR 2014 (2) 665.**

Mr. Bipin Bihari Singh, learned counsel for the petitioners submits that the petitioners are entitled to same treatment as par with Diwakar Prasad Singh and Ranjit Kumar as the State cannot take different stand in the matter of the petitioners as the case of the petitioners stands on similar footing. The principle that if others have been illegally granted benefit cannot be a ground to perpetuate illegality is not res integra as it has been decided by the Apex Court and reiterated on different occasions. Reference in this connection may be made to the judgment in the case of **The State of U.P. & Ors. vs. Rajkumar Sharma & Ors: (2006) 3 SCC 330.**

Considering the aforesaid, the Court is not inclined to grant any indulgence to the petitioners as the case of Diwakar Prasad Singh and Ranjit Kumar is in teeth of the judgment of



the Full Bench and cannot be cited as good precedent to be followed.

In view of the above, the Court does not find any merit in the contention of the petitioner. The writ petition stands dismissed.

(Anil Kumar Upadhyay, J)

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