

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15647 of 2019**

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1. Vinay Kumar Dubey Son of Tuntun Dubey, Resident of village- Bangra, P.s.- Daudpur, District- Saran.
  2. Ravi Shankar Mishra, Son of Late Ram Udar Mishra, Resident of Village - Khanpur, P.S.- Manjhi, District- Saran.
  3. Jafruddin Ansari, Son of Md. Kashim Ansari, Resident of Village - Sirisiya, P.S.- Ravilganj, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna.
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. Director, Primary Education, Education Department, Government of Bihar, Patna.
5. Regional Deputy Director of Education, Saran Division, Saran at Chhapra.
6. District Education Officer, Saran at Chhapra.
7. District Programme Officer (Establishment), Saran at Chhapra.
8. District Accounts Officer, Saran at Chhapra.
9. Block Education Officer, Manjhi Block, Saran.
10. Block Education Officer, Rivilganj Block, Saran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Awadhesh Kumar Singh, Advocate  
For the Respondent/s : Mr.AC to SC 28

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL ORDER**

2      02-08-2019                      Heard learned counsel for the petitioners and learned  
counsel appearing on behalf of the State.

Earlier pursuant to the order dated 3.4.2018 passed in  
CWJC No. 5647 of 2018, the District Programme Officer  
Establishment, Saran has passed order dated 16.3.2019, as  
contained in Annexure-4 to the writ petition granting benefit of



senior pay scale to six persons. Subsequently, vide order dated 25.6.2019, as contained in Annexure-5, the order passed earlier, Annexure-4 was recalled on the ground that certain persons were granted benefits without fulfilling the condition of continuous 12 years of service. The benefit of promotion was stayed until final decision.

The respondents have every right to rectify the mistake but once they have taken decision in terms of the order of this Court, they are expected to take decision after application of mind. Once the District Programme Officer (Establishment) has passed order, it is presumed that he has applied his mind in the decision making process.

The decision of the District Programme Officer (Establishment) dated 25.6.2019 on the basis of complaint made by the Shikshak Sangh appears to be arbitrary exercise of power as the decision has been taken on the complaint without preliminary enquiry into the allegation.

In view of the above, the order dated 25.06.2019 as contained in Annexure-5 cannot sustain. It is accordingly, quashed. However, quashing of the order shall not disentitle the District Programme Officer (Establishment) , Saran at Chapra to take decision after hearing the persons likely to be adversely



affected and unless opportunity of hearing is granted, the respondents shall not pass any order recalling, withdrawing or staying the benefit granted to the petitioner. The respondents, if so advised, may take appropriate decision afresh after opportunity of hearing to the petitioners and pass order in accordance with law. Until such decision is taken in accordance with law, the order dated 16.03.2019, as contained in Annexure-4 shall operate and petitioners are entitled to all consequential benefits.

With the aforesaid, the writ petition stands disposed of.

**(Anil Kumar Upadhyay, J)**

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