

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20587 of 2019

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Pankaj Kumar Singh Son of Ram Lochan Singh, Resident of Quarter No. 251/ABC, Near Ghanshyam Balika Vidyalaya, New Colony, Dinapur Cum Khagaul, Patna at Present Posted as Block Teacher(Trained) of Upgraded Middle School, Mirzapur, Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board Patna through its Secretary.
2. The Chairman, Bihar School Examination Board, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar Mr.Arvind Kumar Sharma Miss Ritika Rani
For BPSC	:	Mr. Sunil Kumar Mandal
For the Respondent/s	:	Mr.Lalit Kishore

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 15-10-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Grievance of the petitioner in the present writ application is non consideration of his case for age relaxation notwithstanding the fact that they have conducted the examination after 8 long years.

3. Learned counsel for the petitioner has drawn attention to this Court to the statement made in paragraph 11 of the writ application. With reference to the paragraph 11, learned counsel submits that it is obligation of the respondents to conduct TET every year but the respondents have failed to conduct the same and after 8 long years they are conducting the



TET. In the meanwhile, those who have acquired eligibility to appear at the TET, they have rendered ineligible on account of maximum age limit prescribed for the test.

4. Learned counsel for the petitioner has also drawn attention of this Court at page 39 where the respondents themselves admitted maximum age relaxation of ten years while holding TET. The opportunity of age relaxation was extended to those who appeared at 2011 TET but while conducting TET in 2019 after 8 long years, the respondents have not considered the issue of age relaxation to those who have become over age on account of non holding of test every year.

5. It is true that respondents have competence to decide when they have to hold TET but they are obliged to take care of the interest of those candidates who acquired eligibility to appear at the examination so that they may be considered for appointment as teachers in the selection process.

6. Since the respondents failed to conduct TET every year, they cannot take advantage of their wrong in not holding TET every year and denying appointment to the petitioner to participate in selection process.

7. The Hon'ble Chief Justice Chagala of Bombay High Court has occasion to decide the equitable principle in the



case of **All India Groundnut Syndicate Ltd. Vs. Commissioner of Income Tax reported in AIR 1954 Bom.232.**

8. Similar view was expressed by the Apex Court reported in AIR 1989 SC 1133 where the Apex Court has considered the failure on the part of the respondents in not holding regular examination and rendered the individual ineligible for consideration on account of their failure to conduct examination. Applying the principle discussed by Hon'ble the Chief Justice Chagala and the Apex Court discussed hereinabove, the Court is constrained to allow the writ application and direct the respondents to grant one time age relaxation to this petitioner and all similarly circumstanced so that they may appear at the TET, 2019 as they may not make to suffer for the lapse of respondents in not holding the examination every year.

9. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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