

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3389 of 2016

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Bihar State Primary Teachers Association through its Executive President Shri
Braj Nandan Sharma, Office at Bhubneshwar Shikshak Seva Sadan,
Exhibition Road, Patna- 800001

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, Delhi
2. State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
3. The Chief Secretary, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
5. The Additional Secretary, Department of Education, Govt. of Bihar, Patna.
6. The Director of Primary Education, Department of Education, Govt. of Bihar, Patna.
7. The Director of Secondary Education, Department of Education, Govt. of Bihar, Patna.
8. The Bihar Staff Legal Services Authority through Member Secretary, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10277 of 2016

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Niraj Singh, Son of Upneshwar Prasad Singh, Resident of Mohalla- Lekhraj
Parishar, Road No.- 3, Patel Nagar, Police Station and Post office-Shastri
Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Human Resource Development Department, Government of Bihar, Patna.
3. The Director, Primary Education Government of Bihar, Patna.
4. The Secretary, Central Board of Secondary Education, New Delhi.
5. The Secretary, Bihar School Examination Board, Patna.
6. The Bihar State Legal Services Authority through its Member Secretary, Patna



... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vikash Kumar Pankaj
For the Union of India	:	Mr. S.D. Sanjay, ASGI
		Mrs. Punam Kumari Singh, C.G.C.
For Respondent No. 8	:	Mr. Patanjali Rishi, Advocate
For the State	:	Mr. Niraj Kumar Sinha, A.C. to PAAG-2

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-02-2020

Heard learned counsel for the petitioners and learned
counsel for the respondents.

2. Petitioner in C.W.J.C. No. 3389 of 2016 has prayed
for the following reliefs:-

“(i) To issue a writ, order or direction in the nature of
Mandamus commanding/directing the Respondent
Nos. 3 and 4 to forthwith immediately conduct the
household survey of the children up to 14 years of age
in accordance with and in true spirit of Rule 6 of the
Bihar State Free and Compulsory Education for
Children Rules, 2011(hereinafter referred to as “the
Rules”;

(ii) To issue a writ, order or direction in the nature of
Mandamus commanding/directing the respondents to
forthwith, immediately establish neighbourhood
school in accordance with Sections- 6, 8(b) and 9(b)
of the Right to Children to Free and Compulsory



Education Act, 2009 (hereinafter referred to as “the Act”) after conducting the school mapping in accordance with and in true spirit of the Explanation contained in Rule 5 of the aforesaid Bihar State Free and Compulsory Education for Children Rules, 2011;

(iii) To issue a writ, order or direction in the nature of Mandamus commanding/directing the respondents to ensure compulsory admission on the 25% of the seats reserved for the economically weaker section in the un-aided private recognized schools and the same is strictly implemented and moreover, the local authorities monitoring such admission prepares and submits its periodical reports;

(iv) To issue a writ, order or direction in the nature of Mandamus to respondents to forthwith immediately give effect the process of recognition of the schools and expeditiously complete the same in accordance with and in true spirit with the Sections 18 and 19 of the Act and Rule 11 of the aforesaid Rules;

(v) To issue a writ, order or direction in the nature of Mandamus commanding/directing the respondents to forthwith ensure that only qualified and trained teachers as incorporated under Section 23 of the Act and Annexure-2 are recruited and allowed to teach in all Primary Schools run and controlled by the Local Bodies, Siksha Parishads and Private Schools as well.”

3. Petitioner in C.W.J.C. No. 10277 of 2016 has



prayed for the following reliefs:-

“(I) For issuance of writ/order/direction in the nature of Public Interest Litigation upon the respondents for immediately implementation of right of child to free and compulsory education under the Right to Education Act, issued by the Government of Bihar through the Bye Laws for secondary schools, whereby and where under the guidelines of Right of children for Free and Compulsory Education Act, 2009, under Chapter IV, responsibilities of schools and teachers extent of school responsibility for free and compulsory education specified in sub clause (iii) and (iv) of Clause (n) of Section 2 shall admits in Class I to the extent of at least 25% of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion, which is also provided under Article 21(A) of Right to Education, in spite of provisions and the bye laws as well as the guidelines of the Central Government/State Government, so that for free and compulsory Education;

(II) For further direction upon the respondents that C.B.S.E./B.S.E.B. has issued the guidelines and policy decision by way of rules provided that all the books of the student have already been provided by the C.B.S.E. as well as B.S.E.B. but the school administration, who have not complied with the



guidelines and the school administration have provided and circulated the private publication's book forcibly against the guidelines, therefore, the petitioner prays for direction upon the respondent including the school administration, so that the education may be provided through the government publication's book, which is so low price book, particularly the children belonging to weaker society, so far the private publication's books are more time costly than government publication's books and all the sentences as well as syllabus are equal;

(III) For further direction upon the school administration so that to teach the student/children through the government publication's books as per the guidelines of the Central Government as well as State Government;

(IV) For further prayer of the petitioner that an inquiry may be conducted through the Vigilance Department or through the Central Bureau of Investigation or through any other agencies, so that the private school administration who have complied with the section 12(c) of Right of Children to Free and Compulsory Education Act, 2009, or not since the weaker children they were not admitted in the school, whereas the provisions at least 25% of the strength of that class children belonging to weaker society may be admitted in the school, therefore may kindly call for the report from the private school and direct the Vigilance Department, so that to inquire the matter, whether the guidelines have been followed by the private school



or not.”

4. With the passage of time, we find the present petitions to have served their utility, inasmuch as, infrastructure under the Right of Children to Free and Compulsory Education Act, 2009 and Bihar State Free and Compulsory Education for Children Rules, 2011 stands established in most of the schools referred to in the petitions. Also, the household survey to a large extent stands carried out.

5. In the supplementary counter affidavit dated 11.11.2016 filed on behalf of Respondent No. 6 it stands recorded in Paragraph 9 thereof, which stands reproduced herein under:-

“That as per habitation mapping/survey the total number of habitations in the State was 1,12,067, out of which 1,08,074 habitations were served by primary school facilities in 2012-13. It is stated that out of remaining 3993 habitations, 2097 habitations were not fulfilling the norms of opening a primary school whereas, 1896 habitations were found eligible for opening of new primary schools, for which steps are being taken up to locate land so that new primary school could be established within those habitations.”

6. As such, we dispose of the present petitions



reserving liberty to the petitioners or any other public spirited person to agitate the surviving grievance(s), if any, with the appropriate authority, and thereafter take recourse to such remedies as are otherwise available, including approaching this Court by way of a separate writ petition.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	26.02.2020
Transmission Date	

