

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22335 of 2019

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1. Lakhan Lal Nishad, S/o Shiv Shankar Sahni Resident of Village- Chainpur, P.o.- Minapur, P.s.- Minapur, Block- Minapur, District- Muzaffarpur, presently posted as Block Teacher at Upgraded Middle School Kharhar, Block- Minapur, District- Muzaffarpur
 2. Sanjeev Kumar, s/o Bhikhari Prasad Yadav Resident of Village- Salempur, P.o.- Tengrahan, P.s.- Minapur, Block- Minapur, District- Muzaffarpur, presently posted as Block Teacher at Upgraded Middle School Salempur, Block- Minapur, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary Bihar, Patna
3. The Additional Chief Secretary Bihar, Patna
4. The Principal Secretary Human Resource Development Department, Govt. of Bihar, Patna
5. The Principal Secretary Finance Department, Govt. of Bihar, Patna
6. The Principal Secretary Labour Departemnt, Govt. of Bihar, patna
7. The Director Primary Education, Human Resource Development Department, Govt. of Bihar, Patna
8. The Director Secondary Education, Human Resource Development Department, Govt. of Bihar, Patna
9. The Regional Provident Fund Commissioner Employees Provident Fund, Regional Office, 3rd Floor, R-Block, Road No. - 6, Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Nalin Kumar
For the Respondent/s	:	Mr. Jai Prabhat Kishore, Advocate
For the EPFO	:	Mr. Prashant Sinha, Advocate
		Mr. Amit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 24-01-2020

Heard Mr. Nalin Kumar, learned counsel for the
petitioner; Mr. Prashant Sinha, learned Advocate for
Respondent No. 9 / the Regional Provident Fund



Commissioner, Employees Provident Fund, Regional Office;
and Mr. Jai Prabhat Kishore, counsel for the State.

The petitioners have approached this Court for a direction to the respondents to extend the benefits of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and schemes under the Act to all Teachers and Librarian and others appointed under Bihar Panchayat / Nagar Nikay Elementary Teachers (Appointment and Service Conditions) Rules, 2006/2012.

It has been submitted on behalf of the petitioners that notwithstanding the stand of Respondent No. 9 that such beneficial welfare measures are extendable to contractual employees including Teacher, Librarian and others of the Education Department also, nothing concrete has been done towards implementation of such Scheme.

This Court has been shown a communication made by the Chief Secretary to all the Departmental Secretaries for implementing the aforesaid scheme to all the organizations where the employees are more than 20



in number. This communication presupposes a decision taken at the governmental level for extending the benefits of the Act as well as the Schemes under the Act to even contractual employees, especially in the Department of Education; but till date, no effort has been made nor any contribution has been collected from such employees and therefore nothing has been deposited with the Employees Provident Fund Commissionerate.

A Public Interest Litigation petition was filed in the High Court *vide* C.W.J.C. No. 17372 of 2017, wherein the Division Bench by order dated 11.01.2018 took note of the fact that a decision at the governmental level has already been taken and therefore the matter would not require any immediate attention under Public Interest Litigation.

This makes the situation even worse.

If there is a disclosure before a Court of Law that a decision has been taken to extend the benefits of the Act and the Schemes framed thereunder to the contractual



employees, non-implementation of the same in tangible form merely reflects a recalcitrant approach of the Government.

This Court has also been shown a letter issued by the Additional Central Provident Commissioner (BR & JH) Zonal Office, Patna addressed to the Director, Secondary Education, Government of Bihar, Patna, intimating that under the Regulations, it is mandatory that contractual teachers ought to get the benefits of the scheme framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and since the State Government is controlling the selection and service conditions of Teachers through the district level authorities, necessary advisory is required to be issued to the District Level Authorities for ensuring compliance of the Act with regard to contractual teachers. The letter also indicates that the Commissionerate expects the Education Department, Government of Bihar to extend full cooperation in ensuring



the extension of the benefits of the Act to the contractual teachers.

With the aforesaid communication by the Provident Fund Commissioner, there does not appear to be any difficulty or roadblock in implementing the same.

This Court has further been informed that an association of such employees has already represented before the Chief Minister, Additional Chief Secretary and other functionaries of the Government intimating them that despite the extension of the benefits of the Act to contractual teachers, especially in the Education Department, no steps have been taken any further in that regard.

Such representations have not been adverted to and therefore have not been taken note of.

Under the aforesaid circumstances, this Court deems it appropriate to direct the Respondent Nos. 2, 3 and 4 to ensure that the benefits of the Act and the



schemes framed thereunder are extended to the contractual employees at the earliest.

It would also be appropriate for the concerned authorities to let the representationists know that efforts are being made to extend such privilege to which the members of such association are entitled. Any lacklustre approach of the Government in this regard would not be appreciated.

With the aforesaid observation / direction, this petition stands disposed off.

Learned counsel for the State is directed to apprise the Respondent Nos. 2, 3 and 4 of the order which has been passed today.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	29.01.2020
Transmission Date	

