

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22164 of 2019

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1. Shambhu Sharan Mandal, S/o Sri Murli Manohar Mandal, Resident of Mohalla- South Bhatta Durgabari Bengali Tola Purnea, P.O.- Bhatta Bazar, P.S.- K. Hat, District- Purnea.
 2. Ram Kishore Singh, S/o Ramprakash Singh, Resident of Village and P.O.- Keshawe, P.S.- Barauni, District- Begusarai.
 3. Ranvijaya Kumar, S/o Bashisth Sharma, Resident of Village- Kanauti, P.O.- Kazisaray, P.S.- Makhdumpur, District- Jehanabad.
 4. Rajiv Kumar, S/o Awadhesh Kumar, Resident of Nagar Panchayat Silao, P.O. and P.S. - Silao, District- Nalanda.
 5. Harendra Singh, S/o Late Ramswarup Singh, Resident of Village and P.O.- Ghejan, P.S.- Shakurabad, District- Jehanabad.
 6. Madhurendra Kumar, S/o Narendra Kishore Thakur, Resident of Village and P.O.- Jagapokar, P.S.- Harsidhi, District- East Champaran.
 7. Satendra Kumar, S/o Sri Munga Sharma, Resident of Village - Garranda, P.O.- War, District- Aurangabad.
 8. Sunil Kumar Das, S/o Chandra Bhusan Prasad, Resident of Mohalla- Sultanpur Ward No. -17, P.O.- Danapur Cantt, P.S.- Danapur, District- Patna.
 9. Pankaj Priyadarsi, S/o Rajpatinarayan, Resident of Village - Rasghunathpur, P.S. - Khiri More, District- Patna.
 10. Jitesh Kumar, S/o Late Raghubansh Singh, Resident of Mohalla- Alakapuri, P.O. and P.S.- Bhagwanpur, District- Muzaffarpur.
 11. Sandip Kumar, S/o Binod Kumar Singh, Resident of Village and P.O.- Warispur Patti, P.S.- Bhagwanpur, District- Vaishali.
 12. Manisha Kumari, W/o Shri Ranjeet, Resident of Village - Karhari, P.O.- Bhagwanpur, P.S.- Bhagwanpur, District- Vaishali.
 13. Samir Kumar, S/o Mithilesh Kumar, Resident of Village - Rajendrapuri, P.S.- Kaji Mohammadpur, District- Muzaffarpur.
 14. Pawan Kumar Thakur, S/o Dinanath Thakur, Resident of Village and P.O.- mahesi, P.S.- Mahesi, District- Saharsa.
 15. Rajesh Kumar Pathak, S/o Ganga Prasad Pathak, Resident of Village Fatehpur, P.O.- Indour, P.S.- Harhi, District- Buxar.
 16. Vidya Bhushan Kumar Pandey, S/o Subachan Pandey, Resident of Village



and P.O.- Kespa, P.S.- Alipur, District- Gaya.

17. Vinay Kumar Gupta, S/o Late Dharnidhar Gupta, Resident of Village - Nai Bazar behind Sadar Hospital Chhapra, P.S. - Bhagwan Bazar, District- Saran.
18. Hamid Anwar, S/o late Md. Zakaria, Resident of Mohalla- Sheo Bazar Pragati Nagar, P.O.- Chhapra, P.S.- Bhagwan Bazar, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
3. The Director, Secondary Education, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
4. The Assistant Director, Education Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
5. The Chairman, Bihar School Examination Board, Patna- 17.
6. The Secretary, Bihar School Examination Board, Patna- 17.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Surendra Mishra
For the Respondent/s : Mr.Madhaw Prasad Yadaw (Gp23)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 13-01-2020

Heard the learned counsel for the parties.

It is the contention of the petitioners that they could not appear in the examination conducted for Physical



Teachers and Health Instructors in the year 2019 as they had crossed the maximum age limit.

The grievance of the petitioners is that according to the Rules of appointment of Physical Teachers and Health Instructors, examination has to be conducted every year. For Secondary Teachers, a Secondary Teachers Eligibility Test (STET) has been conducted and under the orders of this Court, a decision has been taken by the Government to grant age relaxation to the trained Teachers on the sole ground that the examinations have not been conducted with regularity and trained teachers have lost out on real opportunity of getting permanent appointment with the government. With the aforesaid decision of the government which has been brought on record by way of supplementary affidavit by the respondent, the case of such Secondary Teachers is not required to be adverted to or adjudicated.

Therefore, no order need be passed with respect to the petitioners other than petitioner no. 4, 7 and 14, as



they belong to the Secondary Teachers and decision with respect to them have already been taken by the Government.

The learned counsel for the petitioners restricts his prayer for such Physical Teachers and Health Instructors, for whom examination was conducted in the month of November, 2019 but they could not appear in such examination because of their having crossed the maximum age. Now the grievance of the petitioner is that since they also fall in a stream of service which is similar to that of the Secondary Teachers and who have been accorded age relaxation considering the aspect that the examination was not being conducted with regularity, there is no reason why the aforesaid age-relaxation be not extended to such candidates who are trained in physical teachers and health instructors. In their cases also, requisite examination has not been held on yearly basis.

Learned counsel for the petitioners, on principle, has referred the judgement of this Court in C.W.J.C. No.



20587 of 2019 in which a Bench of this Court has taken note of the judgement delivered in ***All India Groundnut Syndicate Ltd. Versus Commissioner of Income Tax [AIR 1954 Bom. 232]*** and other cases thereafter wherein it was held that in the event of not holding regular examination, it would only be fair to provide age relaxation to such candidates who would have lost the opportunity of appearing in such examination.

From perusal of the records, it appears that because of the judgement in the afore-mentioned C.W.J.C. No. 20587 of 2019, a decision has been taken at the governmental level for giving 10 years age relaxation to such candidates who were desirous of appearing in STET.

It has been reiterated that similar privilege ought to have been given to such persons who were to appear in Physical Teachers and Health Instructors Test of 2019.

There is some difficulty for this Court in accepting the prayer of the petitioners and issuing directions to the respondents for taking a decision in that regard as on



behalf of the Bihar School Examination Board, it has been stated that there is some doubt whether any examination with respect to Physical Teachers and Health Instructors has been conducted in the past.

Even if such an examination has not been conducted, it would only be fair to direct the concerned respondents to take a decision in this regard, keeping in mind that such privilege of age relaxation has been given to Secondary Teachers and also consider the issue of regularly taking such examination so that the trained teachers do not lose any opportunity of being appointed on regular basis.

In case no decision has been taken by the Government as in the case of STET, similar such decision is required to be taken with respect to any examination for Physical Teachers and Health Instructors.

In case such a decision is taken, the respondents which includes the Department of Education as also the Bihar School Examination Board shall consider the



necessity of holding such examination and allowing such relaxation to be given to desirous candidates who have the eligibility but for the age requirement.

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

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	18.01.2020
Transmission Date	

