

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4975 of 2020**

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National Federation of the Blind, Bihar Branch, A Registered Organization under Societies Registration Act through its Convener Dr. Vinay Kumar, S/o Late Devendra Prasad, R/o Village + P.O.- Karara, P.S. Ghoshwari, Dist. Patna, Having its registered office at Office No. 402, Mokama House, Janak Kishore Road, Kadam Kuan, P.S. Kadam Kuan, District- Patna.

..... Petitioner/s

Versus

1. The State of Bihar, through its Chief Secretary, Government of Bihar, Old Secretariat, Patna, Bihar.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna, Bihar.
3. The Additional Chief Secretary, Department of Education, Government of Bihar, Old Secretariat, Patna, Bihar.
4. The Additional Chief Secretary, Department of Social Welfare, Government of Bihar, Old Secretariat, Patna, Bihar.
5. The Director Primary Education, Government of Bihar, Vikash Bhavan, New Secretariat, Patna.
6. The Director Secondary, Government of Bihar, Vikash Bhavan, New Secretariat, Patna.
7. The Director, Directorate of Divyangjan Empowerment, Patliputra Colony, Patna.
8. The District Education Officer, Araria.
9. The District Education Officer, Arwal
10. The District Education Officer, Aurangabad.
11. The District Education Officer, Banka
12. The District Education Officer, Begusarai
13. The District Education Officer, Bhagalpur
14. The District Education Officer, Bhojpur
15. The District Education Officer, Buxar
16. The District Education Officer, East Champaran (Motihari).
17. The District Education Officer, Darbhanga
18. The District Education Officer, Gaya
19. The District Education Officer, Gopalganj
20. The District Education Officer, Jamui.
21. The District Education Officer, Jehanabad
22. The District Education Officer, Kaimur (Bhabua)
23. The District Education Officer, Katihar
24. The District Education Officer, Khagaria
25. The District Education Officer, Kishanganj
26. The District Education Officer, Lakhisarai
27. The District Education Officer, Madhepura
28. The District Education Officer, Madhubani
29. The District Education Officer, Muzaffarpur
30. The District Education Officer, Munger
31. The District Education Officer, Nalanda
32. The District Education Officer, Nawada
33. The District Education Officer, Patna
34. The District Education Officer, Purnea



35. The District Education Officer, Rohtas
36. The District Education Officer, Samastipur
37. The District Education Officer, Saran
38. The District Education Officer, Saharsa
39. The District Education Officer, Sitamarhi.
40. The District Education Officer, Siwan
41. The District Education Officer, Sheikhpura
42. The District Education Officer, Sheohar
43. The District Education Officer, Supaul
44. The District Education Officer, Vaishali
45. The District Education Officer, West Champaran (Bettiah)

..... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. S.K. Rungta, Sr. Advocate  
Mr. Surendra Kumar Singh, Advocate  
Ms. Sugandha Prasad, Advocate

For the Respondent/s : Mr. Lalit Kishore, Advocate General  
Ms. Shilpa Singh, G.A. 12

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**And**

**HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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**Date: 03-06-2021**

Learned counsel for the parties desire the matter be taken up today.

2. Petitioner has prayed for the following reliefs: -

“a) issuance of a writ of certiorari or any other appropriate writ order or direction thereby calling for the records relating to the maintenance of rosters by Respondents for giving effect to 4% reservation for persons with disabilities in terms of section 34 of rights of persons with disabilities act, 2016 in respect



of recruitment of primary and secondary teachers as well as impugned advertisement as contained in Memo No. 11/Employment-02-01/2019/1142 Dated 01.07.2019 issued for this purpose on the basis of the impugned rosters, examine the same and declare that the impugned rosters have not been maintained in accordance with the statutory provision and the directions of Hon'ble Apex Court as contained in judgment dated 8.10.2013 in Civil Appeal No. 9096/2013 titles as Union of India vs. National Federation of the Blind & others. as well as in Indira Sawhney's case and also not in accordance with the notification published by Bihar Government in extra ordinary edition of Bihar gazette dated 13.12.2017 and consequently quash the impugned advertisement and impugned rosters to that extent.

b) issuance of a writ of mandamus or any other appropriate writ order or direction thereby directing the Respondents to prepare a separate vacancy based roster taking into account the Total number of vacancies of primary school Teachers and secondary school Teachers in the cadre strength and issue a corrigendum to the advertisement clearly notifying the number of vacancies for each category of disabilities in the impugned recruitment of primary school Teachers and secondary school Teachers for the recruitment year 2019-2020 including backlog vacancies in accordance with the directions of Hon'ble Apex Court in the judgment dated 8.10.2013 and further by giving the vacancies equivalent to 1% reservation to each category of disability in the subjects which have been declared suitable for respective category of disability by the Govt. of India as per its Notification bearing No. 16-15/2010-dd.iii. dated 29.7.2013 and further direct the respondents to allow a reasonable time to persons with disabilities including Blind persons to apply against the reserved vacancies so notified after the issuance of the corrigendum to the impugned advertisement;

c) Issuance of a writ of prohibition or any other appropriate writ order or direction thereby restraining



the Respondents from proceeding with the recruitment process pursuant to the impugned advertisement till the process for implementation of scheme of reservation for persons with disabilities in terms of prayer 'B' is complete.

d) To direct the Respondent to keep the recruitment process in abeyance till the defect as pointed out by the petitioner is rectified by the Respondents."

3. On 24<sup>th</sup> of July, 2020, we had passed the following order:

"Request for adjournment is made on behalf of Sri Lalit Kishore, learned Advocate General, who is not in a position on personal ground to assist the Court today.

Ms. Shilpa Singh, learned Government Advocate, appearing for the respondents invites our attention to para-7 of the counter affidavit filed on behalf of respondents no. 3 and 6 which reads as under:-

"That it is made clear that recruitment of teachers were going on but owing to onset of pandemic Covid-19 the process of recruitment has been stalled for the present."

Prima facie, we are of the considered view that petitioner has made out a case for interference.

As such, we direct in view of the stand already taken by the State that further process of recruitment shall not be commenced or concluded without leave of the Court.



As jointly prayed for, list on 19th August, 2020.”

4. Seeking vacation/ modification of the said order, the State filed applications (I.As.No.02 and 03 of 2021) *inter alia* placing on record certain resolutions passed by the State.

5. On 20<sup>th</sup> of May, 2021, certain suggestions were given by Sri S. K. Rungata, learned Senior Counsel, on which the learned Advocate General sought time to obtain instructions from the State.

6. The matter was again listed on 31<sup>st</sup> of May, 2021 when it was again adjourned.

7. Today, Sri Lalit Kishore, learned Advocate General, has placed on record the decision taken by the Government vide communication dated 02.06.2021 of the Additional Chief Secretary, Education Department, Government of Bihar, Patna which reads as under:-



बिहार सरकार  
शिक्षा विभाग, बिहार, पटना।

प्रेषक : संजय कुमार,  
अपर मुख्य सचिव, शिक्षा विभाग।

सेवा में : श्री ललित किशोर,  
विद्वान महाविद्यालय, बिहार, पटना।

पटना, दिनांक : 2-6-21

विषय : सीओएचएच/जेओसी संख्या-4875/2020 (लेखनल फेडरेशन ऑफ बलाइन्ड ब्रह्म राज्य सरकार एवं अन्य) एवं संलग्न बाढ़ में दिनांक-03.06.2021 को निर्धारित सुनवाई में सरकार का पत्र रखने के संबंध में।

महोदय,

उपरोक्त विषयक आपसे हुए निर्देश के आलोक में अंकित करना है कि दिव्यांगजनों को शिक्षक के पद पर नियुक्ति हेतु आवेदन देने हेतु 15 दिन का समय अलग से दिए जाने की विन्तु पर विभाग की सहमति निम्नलिखित शर्तों के अधीन संसूचित की जाती है:-

1. आवेदन जमा करने के पूर्व संबंधित जिला के MC के वेबपोर्टल पर नियोजन इकाईवार, विषयवार एवं कोटिवार संकेत की सूचना पुनः प्रकाशित की जाएगी जिसमें दिव्यांगजनों के लिए श्रेणीवार उपलब्ध रिक्त पदों की सूचना भी स्पष्ट रूप से इंगित होगी। इन आदेश का विज्ञापन विभाग की ओर से संबंधितों की जानकारी हेतु समाचार पत्रों में प्रकाशित की जाएगी।
2. विभागीय अधिसूचना संख्या-1142 दिनांक-01.07.2019 के द्वारा जिला परिषद् एवं नगर निकाय के अधीन उच्च माध्यमिक विद्यालयों में माध्यमिक एवं उच्च माध्यमिक शिक्षक के पद पर छठे चरण के शिक्षकों के नियोजन हेतु आवेदन पत्र प्राप्त करने की अंतिम तिथि 26.09.2019 थी। इस तिथि तक नियुक्ति हेतु आवश्यक अर्हता जिन दिव्यांगजनों द्वारा धारित हो उन्हें ही यह अवसर दिया जाएगा।
3. इसी प्रकार प्राथमिक एवं मध्य विद्यालयों के संदर्भ में विभागीय अधिसूचना संख्या-864 दिनांक-05.07.2019 के द्वारा विभिन्न ग्राम पंचायतों, पंचायत समितियों (प्रखण्ड) एवं नगर निकाय के अधीन प्राथमिक विद्यालयों एवं मध्य विद्यालयों में शिक्षक के पद पर नियोजन हेतु आवश्यक शिक्षा-निर्देश निर्गत किए गए। इस अधिसूचना के क्रम में विभागीय अधिसूचना संख्या-1563 दिनांक-22.11.2019 के अन्तर्गत आवेदन पत्र प्राप्त करने की अंतिम तिथि 23.11.2019 थी। इस तिथि तक नियुक्ति हेतु आवश्यक अर्हता जिन दिव्यांगजनों द्वारा धारित हो, उन्हें ही यह अवसर दिया जाएगा।
4. जो दिव्यांगजन पूर्व में आवेदन दे चुके हैं उन्हें पुनः आवेदन देने की अर्हता नहीं होगी। ऐसे आवेदन पर नियोजन इकाई द्वारा विचार नहीं किया जाएगा। साथ ही, दिव्यांगजन के लिए विहित 4 प्रतिशत रिक्त

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पद के अलावा किसी अन्य कोटि/घेजी के रिक्ति पर नियोजन हेतु  
हस्त अर्पित में आवेदन करने की यह सुविधा नहीं दी जाएगी।  
इस क्रम में माननीय न्यायालय के यह भी अनुरोध करना समीचीन होगा कि  
उक्त विभागीय अधिसूचना संख्या-1142 दिनांक-01.07.2019 एवं अधिसूचना संख्या-  
864 दिनांक-05.07.2019 के द्वारा शिक्षक के पद पर नियुक्ति हेतु लगे जा चुके निर्देशों  
के अन्तर्गत में अन्य कोई बाढ़ शिफा माननीय उच्च न्यायालय के मुख्य न्यायाधीश के  
स्मरणपूर्व में सुनवाई हेतु सूचीबद्ध किया जाएगा। ताकि नियोजन की कार्यवाही को पूर्ण  
करने में सुविधा हो।

विभागाध्यक्ष  
[Signature]  
(संजय कुमार)  
अपर मुख्य सचिव  
शिक्षा विभाग



8. In view of the said decision, Sri Rungata, learned Senior Counsel for the petitioner, states that this petition can be disposed of with a direction to the State to take appropriate action as per law, reserving liberty to the petitioner to file a fresh petition if the need so arises on the same and subsequent cause of action.

9. Liberty granted clarifying that the decision of the State reproduced supra taken on record and accepted be complied with strictly as per law. It is expected of the State to expeditiously fill up the vacancies in terms thereof expeditiously, in accordance with law and the resolutions placed on the record of this file.

10. It stands reiterated that the contents of the communication dated 2<sup>nd</sup> June, 2021 reproduced supra shall form part of the order.

11. In view of the same, the petition stands disposed in the above terms.

12. Interlocutory Application(s), if any, shall stand disposed of.

13. We appreciate the efforts put in by Sri Lalit Kishore, learned Advocate General, Sri S. K. Rungata, learned Senior Counsel, Sri Surendra Kumar Singh and Ms. Sugandha,



learned counsel for the petitioner in assisting the Court,  
arriving at an arrangement mutually beneficial for all.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

Sujit/-.

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