

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11029 of 2019

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1. Ajit Kumar Rai, Son of Bhola Rai, Resident of Rai Bhawan, South of Registry office, Marwari Muhalla, P.S.- Gopalganj, District- Gopalganj.
 2. Manoj Kumar Prasad Son of Late Bhageshwar Prasad, Resident of Village- Dighwan, P.S.- Baikunthpur, District- Gopalganj.
 3. Raja Ram Manjhi, Son of Late Harihar Manjhi, Resident of Rajendra Nagar, P.S.- Gopalganj, District- Gopalganj.
 4. Shashi Kant Singh, Son of Late Shivdhari Singh, Resident of Village- Imiliya, P.S.- Manjhagadh, District- Gopalganj.
 5. Abhay Kumar Rai, Son of Kameshwar Rai, Resident of Mairwa Karn, P.S.- Manjhagadh, District- Gopalganj.
 6. Praveen Kumar Singh, Son of Parmanand Singh Resident of Village- Basaon, P.S.- Basantpur, District- Gopalganj.
 7. Sanjay Kumar, Son of Late Jhamendra Prasad, Resident of Village- Gambhari, P.S.- Baikunthpur, District- Gopalganj.
 8. Dujeshanand Son of Shivnarayan Prasad, Resident of Village- Bhitbherwa, P.S. and District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Saran Division, Chapra, Bihar.
5. The District Magistrate, Gopalganj, Bihar.
6. The District Education Officer, Gopalganj, District- Gopalganj, Bihar.
7. The District Programme Officer (Establishment) Gopalganj, District- Gopalganj, Bihar.
8. The Block Education Officer, Block- Bhore, District- Gopalganj, Bihar.
9. The Block Education Officer, Block- Vijayipur, District- Gopalganj, Bihar.
10. The Block Education Officer, Block- Phulwaria, District- Gopalganj, Bihar.
11. The Block Education Officer, Block- Kateya, District- Gopalganj, Bihar.
12. The Block Education Officer, Block- Kuchaikot, District- Gopalganj, Bihar.



13. Ajay Kumar Singh Son of Vishwanath Singh, aged about not known to the Petitioners, Resident of Village- Sareya, P.O. and P.S.- Bansghati, District- Deoria (U.P.)- Presently Posted at Rajkiya Madhya Vidyalaya, Bhore, District- Gopalganj.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 10102 of 2019

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1. Satish Kumar Rai Son of Late Vishwanath Prasad Rai Resident of Village- Koreya, P.S.- Bhore, District- Gopalganj, Bihar.
2. Vimala Kumari Wife of Brijbhushan Singh Resident of Village- Uttratola, P.S.- Bhore, District- Gopalganj, Bihar.
3. Shakuntala Gupta Wife of Vimal Kumar Jaiswal Resident of Village- Bhore, P.S.- Bhore, District- Gopalganj, Bihar.
4. Umesh Ram Son of Rambriksh Ram Resident of Village- Parsahi, P.S.- Bhore, District- Gopalganj.
5. Shambhu Nath Verma Son of Muktinath Resident of Village- Pagra, P.S.- Vijayipur, District- Gopalganj.
6. Sanjay Kumar Rai Son of Bhrigunath Rai Resident of Village- Geyaspur, P.S.- Guthani, District- Siwan.
7. Lalan Pandey Son of Late Godenath Pandey Resident of Bhingari Bazar, P.S.- Khampar, District- Deoria.
8. Shivnarayan Manjhi Son of Bahuravan Manjhi Resident of Basaha, P.S.- Vijayipur, District- Gopalganj.
9. Samsuddin Ansari Son of Abdul Halim Resident of Village- Pakadi Tola, P.S.- Kateya, District- Gopalganj.
10. Yogendra Ram Son of Late Ramlal Ram Resident of Rakba, P.S.- Bhore, District- Gopalganj.
11. Ajay Kumar Pandey Son of Late Laxuman Pandey Resident of Village- Khajuraha Mishir, P.S.- Bhore, District- Gopalganj.
12. Krishnakant Singh Son of Baburam Singh Resident of Village- Khadahi, P.S.- Bhore, District- Gopalganj.
13. Manoj Kumar Mishra Son of Dwarikanath Mishra Resident of Village- Belaura, P.S.- Bhore, District- Gopalganj.
14. Abid Ali Ansari Son of Vadrudin Ansari Resident of Village- Semrauna, P.S.- Phulwariya, District- Gopalganj.
15. Arvind Kumar Rai Son of Shyamdeo Rai Resident of Village- Adarsh Nagar Singhriya, P.S.- Khorabar, District- Gorakhpur.
16. Janardan Thakur Son of Indrashan Thakur Resident of Shastri Nagar, P.S.- Kotwali, District- Deoria.
17. Brahmdeo Pandey Son of Chandrabhan Pandey Resident of Village-



Bangra, P.S.- Vijayipur, District- Gopalganj.

18. Arun Kumar Singh Son of Ramchandra Singh Resident of Village- Dumar Narendra, P.S.- Bhore, District- Gopalganj.
19. Satish Kumar Singh Son of Ramchandra Singh Resident of Village- Dumar Narendra, P.S.- Bhore, District- Gopalganj.
20. Shyam Bihari Prasad Son of Ramnaresh Prasad, Son of Ramchandra Singh Resident of Village- Basaha, P.S.- Vijayipur, District- Gopalganj.
21. Abdul Samad Son of Hamid Ansari Resident of Village- Tata Indicom, Alba Colony, P.S.- Phulwari, District- Patna.
22. Madan Mohan Singh Son of Baburam Singh Resident of Village- Khadhi, P.S.- Bhore, District- Gopalganj.
23. Omprakash Mishra Son of Late Dharmdeo Mishra Resident of Village- Badahara, P.S.- Bhore, District- Gopalganj.
24. Anil Kumar Kushwaha Son of Ram Awadh Kushwaha Resident of Village- Bhanpur, P.S.- Vijayipur, District- Gopalganj.
25. Dharmendra Nath Ranjan Son of Gangeshwar Yadav Resident of 223 Vikas Nagar Awas Colony, Lachchhipur, P.S.- Gorakhpur, District- Gorakhpur.
26. Binod Kumar Singh Son of Gyani Prasad Resident of Village- Hardiya, P.S.- Bhore, District- Gopalganj.
27. Makun Mahto Son of Bharat Mahto Resident of Gidha, P.S.- Phulwaria, District- Gopalganj.
28. Barister Sah Son of Late Rajbanshi Sah Resident of Village- Ramnagar, P.S.- Bhore, District- Gopalganj.
29. Narvadeshwar Ojha Son of Kailash Pati Ojha Resident of Village- Ojhwaluya, P.S.- Phulwaria, District- Gopalganj.
30. Manoj Kumar Son of Krisna Bihari Prasad Resident of Village- Bindwalya, P.S.- Kuchaikot, District- Gopalganj.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Saran Division, Chapra, Bihar.
5. The District Magistrate, Gopalganj, Bihar.
6. The District Education Officer, Gopalganj, District- Gopalganj, Bihar.
7. The District Programme Officer (Establishment) Gopalganj, District- Gopalganj, Bihar.



8. The Block Education Officer, Block- Bhore, District- Gopalganj, Bihar.
9. The Block Education Officer, Block- Vijayipur, District- Gopalganj, Bihar.
10. The Block Education Officer, Block- Phulwaria, District- Gopalganj, Bihar.
11. The Block Education Officer, Block- Kateya, District- Gopalganj, Bihar.
12. The Block Education Officer, Block- Kuchaikot, District- Gopalganj, Bihar.
13. Ajay Kumar Singh Son of Vishwanath Singh Resident of Village- Sareya, P.O. and P.S.- Bansghati, District- Deoria (U.P.), Presently posted at Rajkiya Madhya Vidyalaya, Bhore, District- Gopalganj.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 25036 of 2019

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1. Sanjiv Shankar Prasad Son of Late Gauri Shankar Prasad Resident of Village- Purandarpur, P.S.- Goreyakothi, District- Siwan.
2. Shashi Kant Singh Son of Late Shivdhari Singh Resident of Village- Hajiyapur Ward No. 10, P.S.- Gopalganj, District- Gopalganj.
3. Ramayan Prasad Yadav Son of Shivpujan Yadav Resident of Village- Nautan, P.S.- Nautan, District- Siwan.
4. Ganesh Sah Son of Shivpujan Sah Resident of Village- Malikana Dhamapakad, P.S.- Manjha Garh, District- Gopalganj.
5. Vinod Kumar Singh Son of Ramadhar Singh Resident of Village- Hasuwa, P.S.- Nautan, District- Siwan.
6. Deep Narayan Son Late Sinhashan Yadav Resident of Village- Ranipur, P.S.- Badhariya, District- Siwan.

... ... Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Primary Education Government of Bihar, Patna.
4. The Regional Deputy Director of Education Saran Division, Chapra, Bihar.
5. The District Magistrate Gopalganj, Bihar.
6. The District Education Officer Gopalganj, District- Gopalganj, Bihar.
7. The District Programme Officer (Establishment) Gopalganj, District- Gopalganj, Bihar.
8. The Block Education Officer Block- Bhore, District- Gopalganj, Bihar.



9. The Block Education Officer Block- Vijayipur, District- Gopalganj, Bihar.
10. The Block Education Officer Block- Phulwaria, District- Gopalganj, Bihar.
11. The Block Education Officer Block- Kateya, District- Gopalganj, Bihar.
12. The Block Education Officer Block- Kuchaikot, District- Gopalganj, Bihar.
13. The Block Education Officer Block- Manjhagarh, District- Gopalganj, Bihar.
14. Ajay Kumar Singh Son of Vishwanath Singh Resident of Village- Sareya, P.O. and P.S.- Bansghati, District- Deoria, (U.P.)- Presently Posted at Rajkiya Madhya Vidyalaya, Bhore, District- Gopalganj.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 11029 of 2019)

For the Petitioner/s : Mr. Mrigank Mauli
Mr.Prince Kumar Mishra, Adv.
For the Respondent/s : Mr. Kumar Kamal Narayan AC to SC 28
For the Respondent No. 13. : Mr. Akhilesh Kumar Sinha, Adv.

(In Civil Writ Jurisdiction Case No. 10102 of 2019)

For the Petitioner/s : Mr. Mrigank Mauli
Mr.Prince Kumar Mishra
For the Respondent/s : Mr. Sanjay Kumar, SC to GP -23

(In Civil Writ Jurisdiction Case No. 25036 of 2019)

For the Petitioner/s : Mr. Mrigank Mauli
Mr.Prince Kumar Mishra
For the Respondent/s : Mr.Subhash Chandra Mishra (Sc16)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 22-11-2021

1. Heard Mr. Mrigank Mauli, the learned senior Advocate for the petitioners, Mr. Kumar Kamal Narayan, learned counsel for the State and Mr. Akhilesh Kumar Sinha for the respondent no. 13/ Ajay Kumar Singh.

2. The petitioners are graduate trained Middle School Teachers whose promotion and appointment as Headmaster in Elementary Schools have been cancelled by



order dated 24.04.2019 passed by the Director, Primary Education, Govt. of Bihar on the plea that in C.W.J.C. No. 9074 of 2018 (Ajay Kumar Singh vs. State of Bihar and Others), a Bench of this Court had directed for cancellation of all the promotions and transfers of such teachers who were promoted to the rank of Headmasters and were placed at different Elementary Schools where the posts of Headmasters were lying vacant.

3. Mr. Mauli has submitted that the order passed in C.W.J.C. No. 9074 of 2018 has been misconstrued by the Director, Primary Education, Govt. of Bihar.

4. The facts leading to the filing of the present petition are hereunder:-

5. A list of eligible Graduate Trained Teachers in the district of Gopalganj for the purposes of their being promoted to the post of Headmaster was published in the year 2017. The name of the petitioners fell in that list. The list was prepared under the Bihar Elementary School Teachers Training Rules of 2011 for promotion and posting of Teachers.

6. On the recommendation of the District Primary



Teachers Promotion Committee, which had held its meeting on 22.12.2017, the petitioners and others were promoted to the post of Headmaster of different schools in the district of Gopalganj. Some of those transferees joined on their respective posts and few of them, after joining, registered their objections with respect to transfer as such objections were invited by the respondents.

7. Some of the clerical mistakes which had crept in the transfer orders were also rectified.

8. The respondent no. 13 in C.W.J.C. No. 11029/2019 (Ajay Kumar Singh), aggrieved by the transfer of one Sanjay Kumar Rai, approached the Regional Deputy Director of Education, who stayed the transfer of aforesaid Sanjay Kumar Rai and six others. However, later, on 27.04.2018 aforesaid Sanjay Kumar Rai was directed to be given charge of Headmaster of Middle School Bhore, Gopalganj. Ajay Kumar Singh, who was working as an Assistant Teacher in Middle School Bhore and was officiating as Headmaster was aggrieved by the promotion of Sanjay Kumar Rai as the Headmaster of the aforesaid school. As such, he challenged his



(Sanjay Kumar Rai) promotion and transfer in the aforesaid school as Headmaster, which was heard by a Bench of this Court in C.W.J.C. No. 9074 of 2018. On the basis of the submission made by aforesaid Ajay Kumar Singh before this Court that Sanjay Kumar Rai had been transferred in the aforesaid school on the recommendation of the public functionaries and Officers of the Government, the Bench set aside all previous orders with respect to Ajay Kumar Singh and Sanjay Kumar Rai and the respondents were directed to take a fresh decision with respect to them in accordance with law within a period of sixty days from the date of receipt / production of a copy of that order. This Court had directed the respondents to consider the case of the petitioner therein (Ajay Kumar Singh) and the respondent Sanjay Kumar Rai objectively while passing fresh order of posting.

9. Pursuant to the aforesaid order, the District Programme Officer (Establishment), Gopalganj vide his communication dated 15.06.2018 contained in Memo No. 1257 stayed all orders with respect to promotion and transfer of Ajay Kumar Singh and Sanjay Kumar Rai. As



directed by this Court, the District Education Officer, Gopalganj held an enquiry with respect to the transfer and promotion of aforesaid Sanjay Kumar Rai on the complaint of Ajay Kumar Singh and vide order dated 18.07.2018 /19.07.2018 came to the specific conclusion that the claim of Ajay Kumar Singh was absolutely unjustified. He could not have claimed for being promoted and appointed as Headmaster as he was only matric trained and had not obtained the grade of graduate trained teacher. The enquiry report further clarified that the school in which Sanjay Kumar Rai was posted as Headmaster, was the school where Cluster Resource Center was located and the school did not have a regular Headmaster. Thus, it was the obligation of the respondents to have placed a regular Headmaster in the aforesaid school.

10. With the claim of the aforesaid Sanjay Kumar Singh having been rejected in the enquiry, instead of challenging the aforesaid report, he preferred a contempt petition before this Court vide M.J.C. No. 1833 of 2018 which has been disposed on 13.01.2018 holding that no



order passed by this Court is found to have been violated and the directions given by this Court had been complied with.

11. Adopting a novell procedure, aforesaid Ajay Kumar Singh challenged the enquiry report before the Director, Primary Education, Govt. of Bihar and submitted before him that in view of the order passed by this Court in C.W.J.C. No. 9074 of 2018, the entire promotion and transfer list was required to be annulled.

12. The Director, Primary Education, Govt. of Bihar appears to have read the following observation of this Court in C.W.J.C. No. 9074 of 2018 referred to above, namely, *"In the aforesaid circumstances, the respondents are required to cancel all the previous orders with regard to petitioner and the respondents treating them as null and void and they are required to take fresh decision in accordance with law within a maximum period of 60 days from the receipt/production of a copy of this order. The respondents will consider the case of the petitioner and respondents objectively while passing fresh order of posting"* as a direction to set aside the entire list



of such teachers who were promoted and transferred to the respective schools as Headmasters.

13. The learned counsel for the petitioners has, thus, argued that the Director Primary Education has passed a perverse order without understanding the import of the order passed in C.W.J.C. No. 9074 of 2017 in which the lis between the two of the aspirants for the post of Headmaster in a Middle School at Bhore in the district of Gopalganj was being scrutinized.

14. What this Court had directed in the aforesaid writ petition was to hold an enquiry with respect to the promotion and transfer of two of the aspirants who are respondents in the present petition and decide the claim inter se between the parties with respect to the post of Headmaster in that particular school. The order was not in rem.

15. The aforesaid order is sought to be justified by the learned counsel for the State and the respondents on the ground that the Director, Primary Education had an overall responsibility to see that no irregularity is committed in matters of promotion and transfer of



Headmasters. Once it was admitted that in case of one of the transferees, the recommendation of a public authority or a high Officer of the Government was given weightage, the entire list of such transferees stood contaminated and a rectification measure had to be adopted.

16. This argument, to say the least, is not acceptable at all.

17. The order passed by this Court in C.W.J.C. No. 9074 of 2018 is absolutely clear in its reach and ambit. The enquiry conducted pursuant to the aforesaid order is also clear in its finding. The claim of Ajay Kumar Singh was rejected on the ground of his not having necessary qualification for being promoted as Headmaster as he was only matric trained at that time. That enquiry report could not have been read as a report indicating mass scale irregularities and transfers having been made on the recommendation of public figures. Thus, for all practical purposes, the Director Primary Education has assumed a responsibility and has presumably acted as if on a mandate by an order given by a Bench of this Court.

18. That being the basis of the order passed by the



Director Primary Education dated 24.04.2019, it is not sustainable in the eye of law.

19. Mr. Mauli has further informed this Court that because of the stay granted by this Court vide order dated 30.09.2020, all such transferees are officiating as Headmasters at their respective place of transfers.

20. The order passed by the Director, Primary Education, Govt. of Bihar vide Memo no. 597 dated 24.04.2019, is thus quashed.

21. These writ applications are allowed.

(Ashutosh Kumar, J)

sunilkumar/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	24.11.2021
Transmission Date	N/A

