

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.675 of 2021

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1. Samrendra Kumar Sudhanshu age about 45 years (Male) son of Sri Mahendra Jha Pankaj,
Resident of village- Harlochanpur, Harlochanpur, P.S- Sarairanjan,
District- Samastipur,
At present posted as Higher Secondary teacher in Philosophy subject of 10+2 Janta High School Jibachghat,
District- Darbhanga.
 2. Santosh Kumar age about 38 years (Male) son of Late Ram Udgar Roy, Resident of village- Dihuti Ishhak goail P.S- Sakra,
District- Muzaffarpur,
At present posted as Secondary teacher in faculty of Hindi of M.R.A.M School Lalbag, Darbhanga.
- PETITIONERS.**

VERSUS.

1. The State of Bihar, through its Principal Secretary of Education Department, Bihar, Patna,
 2. The Additional Chief Secretary, Education Departmentt Govt. of Bihar, Patna,
 3. The Director of Secondary Education Department Govt. of Bihar, Patna.
- RESPONDENTS.**

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Shashi Shekhar Tiwari, A.C. to AAG-10

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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.)

Date : 30-04-2021

Yesterday the matter was taken up when none



appeared for the petitioners. Even today, link for hearing was sent to the learned counsel for the petitioners, but despite the same and repeated call, none entered appearance.

Petitioners have prayed for the following relief(s):

“i) For issuance of direction to the authorities concerned to make equal rule with regards to the promotion of higher secondary teachers as made with the promotion of secondary teachers to higher secondary teachers vide sub rule 2(1) of rule 7 of the Bihar Zila Parishad Secondary and Higher Secondary School Service Rule 2020 by which the grade pay of secondary teachers will be enhanced as Rs. 2400 to Rs. 2800/- just after completion of service period of 04 years of secondary teachers but no such enhancement is made with the higher secondary teachers.

ii) For issuance of direction to make proper rectification with regards to appointment on the post of headmaster as mentioning in rule 8 of Bihar Zila Parishad Secondary and Higher Secondary teachers Service Rules 2020, which is not consistency with the spirit of Article 16 of the Constitution of India, because the appointment on the post of secondary and higher secondary teachers are decentralized and as such the teachers whose appointment has been made under the small unit then equal opportunity



would not be available to the concerns teachers for their promotion on the post of head master with respect to the comparison of the appointment made under the big unit i.e. Zila Parishad etc.

iii). For issuance of direction to the authorities concerned to modify the sub rule (V) of rule 12 of the Zila Parishad Secondary and Higher Secondary teachers Rules 2020 with regard to grant of the benefit of EPF of the concerned teachers only after fixing as salary of Rs. 15000/- per months not on the proper monthly salary of the teachers which is inconsistent with the basic rule of the Employees Provident Fund and Miscellaneous provision Act 1952.

iv) For issuance of direction to the respondents to remove discrepancy in sub rule (IV) of rule 16 of teacher rules 2020 with regard to the extent of voluntary transfer of male teachers as given to the female teachers because as per our constitutional spirit of Article 14 of the Constitution of India the each and everyone is equal before law.

v) For issuance of direction to the authorities concerned to use both the words of Pradhan Adhyapak in preamble of the Zila Parishad secondary and higher secondary teachers service rule 2020 as conjointly as "Pradhanadhyapak" in



view of Hindi grammar.

vi). For issuance of direction to the authorities concerns to remove such other discrepancies as mentioned in application dated 27.8.2020 submitted by the petitioners to the authorities concerned with regards to the Zila Parishad Secondary and Higher Secondary teachers Service Rules 2020 in consonance with the spirit of Indian Constitution.”

In our considered view, no relief as prayed for, can be granted by the Court, for Court cannot legislate, nor can the Court issue a mandamus directing the legislature to legislate in the manner in which the petitioners so desire.

The petitioners’ grievance can be best addressed by the authorities.

As such, we dispose of the present petition with a direction to the petitioners to approach the authorities venting out their grievances.

Shri Shashi Shekhar Tiwari, learned counsel who appears on behalf of all the respondents, namely (1) The State of Bihar, through its Principal Secretary of Education Department, Bihar, Patna; (2) The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna; and (3) The



Director of Secondary Education Department Govt. of Bihar,
Patna, states that as and when any such request is received by
the competent authority, the same shall be considered and
decided in accordance with law, expeditiously and preferably
within a period of four months thereafter.

All issues are left open.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

DKS/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.04.2021
Transmission Date	

