

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8479 of 2018

1. T E T S T E T Uttirn Niyojit Shikshak Sangh and Anr Son of Md. Rahman
Ali Resident of Village-Desari P.S.-Desari Distt.-Vaishali at Hajipur.
2. Ranjeet Kumar Son of Late Ram Sagar Singh, Resident of Village-Bihat,
Tola-Maksaspur P.S.-Barquni Distt.-Bagusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department Govt. of Bihar, Patna.
3. The Director Primary Education Department Govt. of Bihar Patna.
4. National Council of Teacher Education through it's Member Secretary, New
Delhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mukesh Kumar No-1, Advocate
For the Respondent/s	:	Mr.Sunil Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-07-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

1. That this application is being filed to declare the **Rule (Annexure-1) framed by the Education Department Govt. of Bihar vide Notification No.-7/Misc-45/2017 441 dated 21.03.2018**, to be ultra vires on the Ground that the said Rules are in violative of Article 14 of the Constitution of India as well as contrary to the Established Service Law as such Rule-3 which deals that the Matric/Inter Trained Teachers are basic post and Graduate teachers are first Promotional Post which is also contrary to the NCTE because after Right of Education Act 2009 the Basic Post is Graduate Teachers and Rule 9 which deals regarding Promotion in Graduate Level Teachers from the Matric/Intermediate Trained

Teachers and Rule-10 deals regarding Promotion to the post of Head Master in the Govt. Middle School.

And also During pendency of the writ petition, any promotion being started in terms of the said Rule may kindly be stayed.

And also for further issuance of any other writ/writs, order/orders, direction/directions for which the petitioner is legally entitled.

After the matter was heard for some time, learned counsel for the petitioners, under instructions, states that petitioners shall be content if a direction is issued to the authority concerned i.e. **(respondent no. 3, The Director**

Primary Education Department Govt. of Bihar, Patna) or any of the statutory authority to consider and decide the representation which the petitioners shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioners, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of four months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioners shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of four months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed

and due opportunity of hearing afforded to the parties;

(d) Also, opportunity to place on record all relevant materials/documents shall be granted to the parties;

(e) Equally, liberty is reserved to the petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(f) We are hopeful that as and when petitioners take recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(g) Liberty reserved to the petitioners to approach the appropriate forum, if the need so arises subsequently on the same and subsequent cause of action;

(h) We have not expressed any opinion on merits. All issues are left open;

(i) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed
of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	