

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16056 of 2021

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Dinesh Ram, S/o Sri Sita Ram, R/o Village-Dumari North, P.O.-Dumari, P.S.-
Mohanpur Patori, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director (Primary Education) Human Resources Development Department, Govt. of Bihar, Patna.
4. The District Magistrate, District-Samastipur.
5. The District Superintendent of Education, District-Samastipur.
6. The Head Master, Rajakiyakrit Middle School, Dumari North, P.O. and P.S.-Mohanpur Patori, District-Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar Nirala, Adv .
For the Respondent/s : Mr. S.K.Ranjan, AC to GP-17

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 17-08-2022 Heard the parties.

The petitioner has preferred this writ petition based on a statement made by the Education Minister. Admittedly, no order has been passed by the State Government on the basis of the statement of the education minister. The education minister of the State gave a statement that if any person arranges more than 40 children to be admitted in a primary school, the said person would be offered appointment, as primary teacher in the government primary school.



In the opinion of this court, statement made by an education minister or for that matter any minister of the cabinet, can be implemented only after the same becomes a part of an executive order passed by the executive. In other words, a government fiat has to be issued. In absence of any such order having been issued, such statement is not enforceable in law and no writ petition could be filed for seeking enforceability of the statement of a member of the cabinet. It is simply an assurance that the government may be passing orders accordingly.

A statement made by a minister, has to be with responsibility, however, the same has to be made a part of the government's order for the purpose of implementation and enforceability. In Union of India & Others Vs. Ganesh Rice Mills & Anr. reported in **(1998) 9 Supreme Court Cases 630**, the writ petition was preferred by the High Court for implementation of statement made by the Finance Minister on the Floor of the House. The High Court held it to be binding. However, the Apex Court held-

“We are of the view that speech made in Parliament by the Finance Minister cannot be treated as a promise or representation made to the writ petitioner and the principle of promissory estoppel was wrongly applied by the High Court. No case of promissory estoppel has been made out on the facts of this case.



3. In that view of the matter, the judgment under appeal is set aside. The appeal is allowed. There will be no order as to costs."

In view of the fact that the aforesaid statement of the education minister was not made as a part of the government order, the writ petition based on the statement of the education minister as published in the newspaper is held to be not maintainable.

Further, it is noticed that an appointment on the post of primary school teacher is to be governed as per the qualifications laid down by the N.C.T.E. simply because person is able to motivate villagers in sending their children to school, would not make him eligible to be appointed as a teacher. His work may be laudable in society but that alone would not suffice for the purpose of appointment as appointment on post has to be governed by rules and regulations.

The writ petition is found to be without merit and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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