

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15374 of 2022**

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Rita Roy @ Dr. Rita Roy Wife of Ashok Kumar Singh Resident of Flat no.-  
201, Shivram Enclave, East Lohanipur, Phulwari, District- Patna, PIN-  
800003.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director (Administration)-cum-Additional Secretary, Education Department, Government of Bihar, Patna.
4. The State Council of Educational Research and Training, through the Director, Department of Education, Government of Bihar, Patna.
5. The Director, State Council of Educational Research and Training, Education Department, Government of Bihar, Patna.
6. The General Administration Department, through its Principal Secretary, Government of Bihar, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Abhijeet Abhigyan, Adv.  
For the State : Mr. Jai Prabhat Kishore, AC to Sc 13

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

ORAL ORDER

2      16-11-2022

1. Heard the parties.

2. The petitioner by way of this writ petition has

prayed as under:-

*“1. (i). That the petitioner prays for issuance of writ preferably in the nature of mandamus or any other writ or order(s) directing the concerned authorities to promote the petitioner to the post of Reader in the State Council of Education Research*



*and Training (hereinafter referred to as SCERT) wherein vacancies exist on the sanctioned post of Reader and the petitioner fulfills all eligibility criteria for promotion to the said post, and the salary and emoluments of the petitioner may also be directed to be accordingly fixed after promotion.*

*(ii) That the petitioner further prays for issuance of writ of mandamus directing the concerned respondents to grant the benefit of first ACP/MACP to the petitioner w.e.f. 17.04.2004 when she completed 10 years of service as lecturer in SCERT (and not from 01.01.2016 which the department has fixed for first ACP) and accordingly her salary may be fixed and consequential benefits be granted to the petitioner expeditiously as the petitioner is fast reaching age of superannuation in January, 2023.*

*(iii) That the petitioner further prays for issuance of writ of mandamus to the concerned authority directing them to enhance the retirement age of the petitioner from 60 years to that of 65 years bringing the petitioner at par with other*



*teaching professionals/professors employed in different institutions viz. Universities/medical and engineering colleges etc. functioning under the aegis of the state government as she belongs to Bihar Education Service (Research and Teaching Sub-Cadre) and/or be pleased to grant any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.”*

3. The writ petition is wholly frivolous as right of promotion is not available to any individual. It is only, if the exercise of promotion is being conducted that a right of consideration exists to those who fall within zone of consideration. The petitioner claim solely on the ground that she is due to retire after two years, cannot be a reason for issuing a mandamus to direct the respondents to give him promotion. Further prayer made for grant of A.C.P./M.A.C.P to the petitioner on completion of 10 years of service is also subject to the exercise being conducted by the respondents in this regard and based on service record of the petitioner. If the record of the petitioner is not up to the mark, the date of grant of A.C.P/M.A.C.P. would obviously shift accordingly.



4. Keeping in view thereto, the writ petition is found  
to be wholly frivolous and accordingly dismissed.

**(Sanjeev Prakash Sharma, J)**

Pravinkumar/-

Item No. 74

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