

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22132 of 2018

1. Anpurna Mishra, W/o Late Narain Mishra, D/o Late Shivpujan Tiwary, Resident of Village- Emarati Kataharawa, PO Bhawal, PS Ram Nagar, at present R/o near Shiv Mandir, Ward No. 2, PO PS Ram Nagar, District- West Champaran.
2. Lallan Kumar Tiwary S/o Late Pandit Vishun Tiwary, Resident of Village- Ghoghatola Brit, PO Ghogha Bazar, P.S. Chanpatiya, District West Champaran.
3. Kumara Chaman Singh Nepali W/o Shri Surva Kumar Kalakar, R/o near hind cinema Ram Nagar, District- West Champaran.
4. Madhusudan Mishra S/o Shri Raghuvir, Resident of Village- Bada Belwa, PO PS Ram Nagar, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through chief secretary government of Bihar, new secretariat Patna.
2. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
3. The Principal Secretary, Department of Personal and Administrative Reforms, Government of Bihar, Ne
4. The Director Mass Education, Government of Bihar, Patna.
5. The District Magistrate, West Champaran.
6. The District Education Officer West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Chandra Kant, Advocate
Mr. Ravi Bhusan, Advocate
Mr. Navin Kumar, Advocate

For the Respondent/s : Mr. Hari Mohan Mishra, AC to GP-27

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT



Date : 04-10-2023

1. Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The instant writ application has been filed by the petitioners for directing the respondents to act as per order passed in CWJC no.384 of 2017 and also for issuance of directions to the respondents to take steps for absorption of the petitioners giving them similar treatment as given to the other similarly situated persons.

3. The case of the petitioners in brief is that the Government of India launched a scheme known as Non-formal Education Programme for which applications were invited. The petitioners being qualified, applied for the same and were appointed as instructors. After closure of the scheme, the petitioners and others were disengaged. It is the case of the petitioners that other similarly situated persons moved this Court by filing CWJC no. 8110 of 2001, which was disposed of on the stand taken by the State of Bihar therein that the absorption of the supervisors were under active consideration. As no steps were taken for absorption of the instructors, CWJC no. 8418 of 2010 was filed which was disposed of giving direction to the respondents that whatever policy they applied in



respect of the instructors of the programme who were absorbed in regular Government service, similarly the respondents should identify the instructors who were validly appointed and issue orders for their absorption. The writ application was allowed.

4. It is further stated that the State of Bihar filed an appeal against the said order which was registered as LPA no. 1489 of 2011. The said appeal was dismissed with the observation that it was expected that the State Government would take expeditious steps to see that eligible persons are rehabilitated and such process be completed within a period of six months. The State preferred S.L.P. (Civil) no. 32079 of 2015 in the Hon'ble Supreme Court which was also dismissed. While dismissing the same, the Hon'ble Supreme Court observed that the orders of this Court would extend to only those who had approached the High Court.

5. Learned counsel for the petitioners referring to the order dated 3.3.2017 (Annexure-12) passed in CWJC no. 384 of 2017 submits that the learned Single Judge in the said order giving reference to the order passed in MJC no. 3765 of 2016, relying upon the Apex Court's judgment in Ashwani Kumar & Ors. v. State of Bihar & Ors. (AIR 1997 SC 1628) observed that all persons similarly situated and who were waiting in the wings



cannot be denied the relief which is granted by the Court unless the relief is personal to the person. Taking this into account, the writ application was disposed of directing that the petitioner's case would also require consideration by the respondents.

6. Learned counsel appearing for the respondents submits that the State of Bihar preferred LPA no. 1047 of 2017 against the order dated 3.3.2017 allowing CWJC no. 384 of 2017, however, the said LPA was dismissed by order dated 23.1.2018. The State of Bihar thereafter preferred Civil Review no. 59 of 2018 against the order dismissing the appeal. By order dated 5.7.2023 the Division Bench of this Court allowed Civil Review no. 59 of 2018, dismissed the writ application (CWJC no. 384 of 2017) and allowed LPA no. 1047 of 2017.

7. In view of the above, learned counsel for the petitioners submits that the direction passed by the Single Judge allowing the writ application wherein direction was given that the cases of all similarly situated persons (which would have included the petitioners herein) also will have to be reconsidered by the respondents, now having been set aside in appeal/review, the petitioners herein are directly affected by the order of the Division Bench allowing the writ application.

8. Having heard learned counsel for the parties and



taking into consideration the order dated 5.7.2023 passed by the Division Bench allowing Civil Review no. 59 of 2018, in the opinion of this Court, no relief can be granted in the instant writ application and the same is dismissed.

(Partha Sarthy, J)

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CAV DATE	N/A
Uploading Date	05.10.2023
Transmission Date	N/A

