

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3676 of 2022

1. Renu Raman Sinha Wife of Sri Saurabh Kumar Resident of Village- Tonwa, P.S.- Jharukhar, District- East Champaran.
2. Minnu Verma Wife of Sri Alok Kumar Sinha Resident of Village- Damobrti, P.S.- Harsidhi, District- East Champaran.
3. Poonam Kumari Wife of Sri Pramod Kumar Resident of Village- Talimpur, P.S.- Madhuban, District- East Champaran.
4. Pratima Kumari Wife of Sri Nawneet Kumar Resident of Village- Bariyariya, P.S.- Sangrampur, District- East Champaran.
5. Kumari Uma Sinha Wife of Sri Rajesh Kumar Resident of Village- Tehta, P.S.- Makhdoompur, District- Jehanabad.
6. Mamta Kumari Daughter of Sri Narayan Prasad Agrawal Resident of Village- Harsidhi, P.S.- Harsidhi, District- East Champaran.
7. Kiran Kumari Wife of Sri Chandradeo Prasad Yadav Resident of Village- Hidayatpur, Katahara, P.S.- Goraul, District- Vaishali.
8. Mamta Kumari Wife of Sri Shivnath Kumar Resident of Village- Nand Bhawan, Lalji Tola, P.S.- Gandhi Maidan, District- Patna.
9. Asha Devi Wife of Sri Arvind Kumar Resident of Village- Nagdaha Purnahiya, P.S.- Ghorasahan, District- East Champaran.
10. Asha Kumari Daughter of Sri Harihar Prasad Resident of Village- New Moonlight Saloon, Jehanabad, P.S.- Jehanabad, District- Jehanabad.
11. Sabita Devi Wife of Sri Ramesh Kumar Singh Resident of Village- Mirpur Jaguara, P.S.- Jaguara, District- Saran.
12. Premshila Kumari Wife of Sri Lalmohan Kumar Resident of Village- Gurdhari Bigha, P.S.- Deokund, District- Aurangabad.
13. Mira Wife of Sri Ramesh Sharma Resident of Village- Satanpur, P.S.- Ujiyarpur, District- Samastipur.
14. Sujita Kumari Wife of Sri Niranjan Kumar Resident of Village- Babuganj, Teacher Colony, P.S.- Rafiganj, District- Aurangabad.
15. Priyanka Kumari Daughter of Sri Kamta Prasad Singh Resident of Village- Maulabag, Daudnagar, P.S.- Daudnagar, District- Aurangabad.
16. Deepika Kumari Daughter of Sri Kamlakant Dubey Resident of Village- Goh, P.S.- Goh, District- Aurangabad.
17. Kumari Roshni Wife of Sri Sikandar Kumar Vishwakarma Resident of Village- Chaubada, P.S.- Rafiganj, District- Aurangabad.
18. Jyotsna Kumari Wife of Sri Arun Kumar Resident of Village- Sahpur Mali, P.S.- Karpi, District- Arwal.
19. Jyoti Kumari Daughter of Sri Jitendra Sharma Resident of Village- Gulzarbagh, P.S.- Karpi, District- Arwal.
20. Anju Kumari Wife of Sri Dharmendra Kumar Resident of Village- Pondil, P.S.- Kurtha, District- Arwal.



21. Kumari Nitu Wife of Sri Birendra Kumar Bharti Resident of Village- Mangal Bazar, P.S.- Nabinagar, District- Aurangabad.
22. Indu Kumari Wife of Sri Vinod Kumar Resident of Village- Gira, P.S.- Obra, District- Aurangabad.
23. Anjali Kumari Wife of Sri Amar Nath Keshri Resident of Mohalla- New Area Anandnagar, P.S.- Aurangabad, District- Aurangabad.
24. Kumari Abha Wife of Sri Ashok Kumar Resident of Village- Shiva Tola, P.S.- Maner, District- Patna.
25. Razia Khatun Daughter of Abdul Aziz Resident of Village- Amarpura, P.S.- Mohamadpur, District- Gopalganj.
26. Sandhya Singh Wife of Sri Ranjeet Singh Resident of Village- Bhore, P.S.- Bhore, District- Gopalganj.
27. Amrita Kumari Wife of Sri Kamlesh Kumar Singh Resident of Village- Karn Kudariya, P.S.- Mashrak, District- Saran.
28. Chandana Sahni Wife of Sri Kamelsh Sahni Resident of Village- Marar, P.S.- Vijaypur, District- Gopalganj.
29. Usha Kumari Wife of Sri Vijay Kishore Prasad Sharma Resident of Village- Sadai Bigha, P.S.- Birupur, District- Lakhisarai.
30. Kumari Ranju Sinha Wife of Sri Ajay Kumar Singh Resident of Mohalla- West Karyanand Nagar, Ward No.9, Purani Bazar, Lakhisarai, P.S.- Lakhisarai, District- Lakhisarai.
31. Kanchan Kumari Wife of Sri Manoj Kumar Resident of Mohalla- Purani Bazar, Lakhisarai, P.S.- Lakhisarai, District- Lakhisarai.
32. Sabita Kumari Wife of Sri Ajay Kumar Resident of Mohalla- Purbi Uta, P.S.- Jehanabad, District- Jehanabad.
33. Rahat Saba Daughter of Akil Ahmad Resident of Village- Kurtha Dih, P.S.- Kurtha, District- Arwal.
34. Pinki Kumari Wife of Sri Umesh Bharti Resident of Village- Ghatkan, P.S.- Kako, District- Jehanabad.
35. Rinku Kumari Wife of Sri Shankar Prasad Thakur Resident of Village- Hasopur, P.S.- Khanpur, District- Samastipur.
36. Kumari Pushpa Wife of Sri Rajkumar Sinha Resident of Village- Bandiha, P.S.- Rosera, District- Samastipur.
37. Geeta Kumari Wife of Sri Manoj Kumar Resident of Village- Phenara, P.S.- Phenara, District- East Champaran.
38. Nutan Chaudhary Wife of Sri Rajiv Chaudhary Resident of Village- Chandauli, P.S.- Tajpur, District- Samastipur.
39. Kanchan Mala Wife of Sri Manoj Kumar Verma Resident of Village- Mathurapur, P.S.- Mathurapur, District- Samastipur.
40. Gita Kumari Wife of Sri Ramadhar Ram Resident of Village- Mahishari, P.S.- Ujiyarpur, District- Samastipur.
41. Mala Kumari Daughter of Sri Rajesh Kumar Sharma Resident of Village- Phenara, P.S.- Phenara, District- East Champaran.



42. Anita Kumari Wife of Sri Umesh Kumar Singh Resident of Village- Kanj, P.S.- Bhabhua, District- Kaimur.
43. Sunita Kumari Wife of Sri Bhupendra Prasad Singh Resident of Village- Bahuara, P.S.- Chand, District- Kaimur.
44. Namita Kumari Wife of Sri Rajiv Ranjan Singh Resident of Village- Amwari, P.S.- Mohania, District- Kaimur.
45. Chanda Kumari Wife of Sri Shambhu Kumar Resident of Village- Ghosi, P.S.- Ghosi, District- Jehanabad.
46. Nilu Ranjan Daughter of Sri Baleshwar Sharma Resident of Village- Bandhuganj, P.S.- Ghosi, District- Jehanabad.
47. Nisha Bharti Wife of Sri Anil Kumar Resident of Village- Bahri Begumpur, P.S.- Chowk, District- Patna.
48. Nilam Kumari Wife of Sri Alakhraj Singh Resident of Village- Hetimpur, P.S.- Jamo Bazar, District- Siwan.
49. Sangita Kumari Wife of Late Pramod Kumar Resident of Village- Madhuban, P.S.- Madhuban, District- East Champaran.
50. Asha Kumari Wife of Sri Sujit Kumar Resident of Village- Rajpur Mathia, P.S.- Kotwa, District- East Champaran.
51. Kumari Rekha Nag Wife of Sri Sona Lal Sah Resident of Village- Bijbani, P.S.- Jitna, District- East Champaran.
52. Dulari Kumari Wife of Sri Rajkumar Resident of Village- Kaswa Laukhan, P.S.- Ghorasahan, District- East Champaran
53. Shashikala Devi Wife of Sri Birendra Prasad Yadav Resident of Village- Kaswa Laukhan, P.S.- Ghorasahan, District- East Champaran.
54. Lata Kumari Wife of Sri Bridhichandra Kishore Resident of Village- Piparia, P.S.- Piparia, District- Kaimur.
55. Manimala Kumari Wife of Sri Manoj Kumar Resident of Village- Karandey, P.S.- Karandey, District- Sheikhpura.
56. Rajnigandha Wife of Sri Rajiv Kumar Pandey Resident of Village- Mahison, P.S.- Tetarhar, District- Lakhisarai.
57. Nimmi Kumari Wife of Sri Dipu Kumar Resident of Village- Kolhuarwa, Ward No.2, P.S.- Motihari, District- East Champaran.
58. Binita Kumari Wife of Sri Surendra Paswan Resident of Village- Katra Chowk, P.S.- Sheikhpura, District- Sheikhpura.
59. Priyambda Kumari Wife of Sri Kumar Rajesh Resident of Village- Sadikpur, P.S.- Sadikpur, District- Sheikhpura.
60. Rita Kumari Wife of Sri Rungta Prasad Singh Resident of Village- Bhusia, P.S.- Rojoun, District- Banka.
61. Anjana Kumari Anju Wife of Sri Sanjay Prasad Singh Resident of Village- Khiddi, P.S.- Rajoun, District- Banka.
62. Nutan Kumari Wife of Sri Sudhir Kumar Resident of Village- Chand Bela Patori, Ward No.12, Saharsa, P.S.- Saharsa, District- Saharsa.
63. Tanuja Kumari Wife of Sri Vijay Kumar Singh Resident of Village-



Gangjala, Mira Cinema Road, Ward No.19, P.S.- Saharsa, District- Saharsa.

64. Aarti Kumari Wife of Sri Rupesh Kumar Jayaswal Resident of Mohalla-Nauhatta, Ward No.12, P.S.- Nauhatta Paschimi, District- Saharsa.
65. Kumari Resham Wife of Sri Krishna Kumar Sandilya Resident of Village-Kahra, P.S.- Dhabouli, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Bihar, Patna.
3. The Development Commissioner, Bihar, Patna-cum-the Chairman Executive Committee, Bihar Education Project Council, Patna.
4. The State Project Director, Bihar Education Project Council, Patna-cum-Member Secretary, Executive Committee.
5. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, East Champaran.
6. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Jehanabad.
7. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Vaishali.
8. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Patna.
9. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Saran.
10. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Aurangabad.
11. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Samastipur.
12. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Arwal.
13. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Gopalganj.
14. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Lakhisarai.
15. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Kaimur.
16. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Siwan.
17. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Sheikhpura.
18. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Banka.



19. The District Education Superintendent-cum-District Programme Co-ordinator, Bihar Education Project, Saharsa.
20. The Headmaster, Kasturba Gandhi Valika Vidyalaya, East Champaran.
21. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Jehanabad.
22. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Vaishali.
23. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Patna.
24. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Saran.
25. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Aurangabad.
26. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Samastipur.
27. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Arwal.
28. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Gopalganj.
29. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Lakhisarai.
30. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Kaimur.
31. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Siwan.
32. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Sheikhpura.
33. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Banka.
34. The Headmaster, Kasturba Gandhi Valika Vidyalaya, Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Indu Bhushan, Adv. With Ms. Priyanka Kumari, Adv.
For the State	:	Mr.Prabhakar Jha (Gp 27)
For respondent BEPC	:	Girijish Kumar, Adv.

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

ORAL ORDER

3 10-01-2023

1. Heard the parties.

2. The petitioners by way of this writ petition prays for directing the respondents to implement the decision taken by the Development Commissioner and the Additional Chief Secretary, Education Department, Bihar dated 31.05.2019, whereby it was decided that the erstwhile part time Teachers, who have been now re-designated as Vocational Instructors should be absorbed



on the post of Part Time Teachers and only thereafter further employment exercise should be conducted.

3. Learned counsel submits that without following the said decision the respondents have now issued an Advertisement for filling up the post of Part Time Teachers in various subjects under the Kasturba Gandhi Balika Vidyalaya.

4. Per contra, learned counsel appearing for the Bihar Education Project Council (hereinafter the Council) has submitted that the said decision which is sought to be implemented, was to be approved by the Council as is apparent from the observations made in the decision dated 31.05.2019.

5. The Council vide order dated 13.06.2019 did not accept the said proposal as it is, but it took a decision that the Vocational Instructors may be allowed to participate in the subsequent selection process for the post of Part Time Lady Teachers in the Kasturba Gandhi Balika Vidyalaya by granting them bonus marks for each year of service is maximum of 25 marks. Thus, their experience previously held as Vocational Teachers was to be considered for the purpose of participation in the new Advertisement.

6. Learned counsel submits that no right is created in favour of the petitioners on the basis of the decision taken by the



Development Commissioner dated 31.05.2019 as the said decisions was subject to the final approval of the Council. It has not accepted the proposal of absorbing the Vocational Instructors on the post of Part Time Teachers. The reason for not acceptance is because earlier the Part time Vocational Teachers were in vogue, while now it is subjectwise Part Time Teachers, who are required to teach in the Kasturba Gandhi Balika Vidyalaya. If the petitioners possessed the particular qualification viz. Science, Maths or Arts, they would be allowed to participate and be given bonus marks of experience which they have gained as Vocational Instructors.

7. Learned counsel has also pointed out that earlier the similarly situated persons had preferred C.W.J.C. No. 6153 of 2016 challenging the re-designation of the post of Part Time Teachers to Vocational Training Instructors, wherein the Court found that it was a contractual appointment and the service would be governed by the said contractual conditions. The writ petition was held to be not maintainable at their behest.

8. I have considered the submissions. In C.W.J.C. No. 6153 of 2016, decided on 27.02.2018, this Court has observed as under:-

“The initial engagement of the petitioners was made as ‘Part Time Teacher’ which



subsequently renamed as 'Vocational Training Instructors'. Such engagement was contractual in nature under the scheme of S.S.A., in 'Kasturba Gandhi Balika Vidyalaya. Any dispute relating to their initial contractual appointment/extension of contractual period, and any change in the service conditions cannot be a subject matter of writ jurisdiction of this Court. Since the appointment of the petitioner is admittedly contractual in nature, therefore, the petitioners are not entitled to get any protection under Article 311 or any other provisions under the Constitution of India. They cannot claim similar kind of protection as available to the State Employees. The petitioners being appointed by the Bihar Education Project Council, which is a registered society under the SocietiesRegistration Act for implementation of objectives of 'Sarva Shiksha Abhiyan'. The petitioners being not a civil servant of the State, therefore, they cannot claim any protection by Article 311 of the Constitution of India. The petitioners have no such substantive right to continue on the post beyond the terms and conditions of their contractual appointment, as also, after expiry of the contractual period with any extension made by the Selection Committee. Therefore, no mandamus can be issued for enforcement of a non-existent right.

In all these writ petitions, the petitioners are aggrieved by the decision taken in the 77th meeting of the State Executive Committee dated 08.01.2016 of Bihar Education Project Council, by which the post of 'Part Time Teacher' being re-named as 'Vocational Training Instructors' and the said post being held as Dying Cadre.



In view of the observations and discussions made above, especially taking into consideration of the nature of engagement/appointment of these petitioners i.e. contractual appointment, under a scheme launched by the Government of India, in 'Kasturba Gandhi Balika Vidyalaya', I am of the considered opinion that such dispute relating to the service conditions of the petitioners is not amenable to the writ jurisdiction under Article 226 of the Constitution of India.

These writ petitions are therefore, accordingly, dismissed."

9. Having noticed the aforesaid view, this Court would now only limit to examine whether the Council was bound by the decision taken by the Development Commissioner and the Additional Chief Secretary dated 31.05.2019 and notice that the Officers vide their observations dated 31.05.2019 only proposed that the Vocational Training Instructors should be absorbed on the post of Part Time Teachers. The said proposal was to be sent for approval to the Council. Thus, the same cannot be a final decision and subject matter for issuing a mandamus to the respondents. A proposal can only be implemented, once it is approved. Since the Council did not approve the said proposal, the claim of the petitioners is found to be without basis. The Council has only granted the petitioners benefit of bonus marks



for experience gained by them for benefit in any subsequent selection. The petitioners would be, therefore free to participate in the selection process and claim bonus marks accordingly.

10. The writ petition is found to be mis-conceived and accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 4

U			
---	--	--	--

