

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11045 of 2015

1. Ranjeet Kumar Singh and Ors son of Lallan Singh Yadav, resident of village- Gharauli, Police Station- Bagen Gola, District- Buxer.
2. Ramakanti Kumari, D/o Ayodhya Singh, resident of village and Post- Chakiya, Police Station- Sikarahata, District- Bhojpur.
3. Arvind Kumar, son of Ram Pyar Ram, resident of village- Khilafatpur, post- Chausa, District- Buxar.
4. Sangita Kumari, D/o Sri Mangaldeo Singh, resident of Bazar Samiti Anaith, Ara, Post- Anaith, police Station- Nawada, District- Bhojpur.
5. Chandrakala Verma, D/o Nawal Kishore Singh, resident of village- Ratnarh, Police Station- Agiaon, District- Bhojpur.
6. Kumari Rubi D/o Ashok Kumar Singh, resident of Chhota Sasaram, Post and Police Station- Udawant Nagar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Human Resources Department, Government of Bihar.
3. The Secretary, Human Resources Department, Government of Bihar.
4. The Director, Higher Secondary Education, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv. Mr. Surendra Kumar, Adv.
For the State	:	Mr. Pankaj Kr. Singh, AC to GA 9

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 20-02-2023

1. The petitioner by way of this writ petition has
prayed as under :-

*“1. That the petitioners seek the
following reliefs through this writ application :-*

*I) Issuance of a writ in the nature of writ
of mandamus commanding the respondents to forthwith*



advertise adequate number of vacancies of Prakrit teachers for imparting education of Prakrit language of students of XI and XII in Higher/ Senior Secondary Schools run under the state government and appoint the petitioners who fulfill eligibility criteria on the said posts of Prakrit teachers without any delay.

II) Issuance of a writ in the nature of writ of mandamus directing the respondents not to neglect and discriminate against education of Prakrit language because earlier no vacancy was advertised for appointment of Prakrit teachers in Higher/ Senior Secondary Schools.

III) Issuance of any other writ (s) or order (s) or direction (s) which may be deemed fit and proper in the facts and circumstances of the case.”

2. The question regarding creation and abolition of post is an exclusive domain of the State Government. No judicial interference can be made in such matters. In **Official Liquidator Vs. Dayanand & Ors. 2008 (10) SCC**, the Supreme Court has held as under :-

“59. The creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of selection, etc. are matters which fall within the exclusive domain of the employer. Although the decision of the employer to create or abolish



posts or cadres or to prescribe the source or mode of recruitment and laying down the qualification, etc. is not immune from judicial review, the Court will always be extremely cautious and circumspect in tinkering with the exercise of discretion by the employer. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post or number of posts be created or filled by a particular mode of recruitment. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provisions or is patently arbitrary or vitiated by mala fides.”

3. Keeping in view above principle, this Court refrains from interfering in the aspect whether the post should be created for the subject of Prakrit by the State Government or not.

4. The writ petition is mis-concieved and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 35

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

