

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.255 of 2022

In
Civil Writ Jurisdiction Case No.5489 of 2020

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1. Dhananjay Singh Son of Late Jagdish Singh, presently posted as TGT at Middle School Bemta, Block- Town Block, District- Gaya.
 2. Ajoy Kumar, Son of Late Radha Mohan Prasad, presently posted as Headmaster at Mahavir Middle School, Block -Nagar Nigam (North), District- Gaya.
 3. Naveen Kumar Athghara, son of Vijay Kumar, presently posted as Headmaster at Middle School Nawada, Block- Nagar-Nigam (North), District- Gaya.
 4. Mukesh Prasad Verma, Son of Madan Prasad, presently posted as Headmaster at Adarsh Middle School Tekari, Block - Tekari, District- Gaya.
 5. Shibasis Banerjee, Son of Late Bishwanath Banerjee, presently posted as TGT at Mahavir Middle School, Block - Nagar Nigam (North), District- Gaya.
 6. Satya Prakash Son of Late Baijnath Singh, presently posted as Headmaster at Alakhdev Middle School, Block - Guraru, District- Gaya.
 7. Md. Tarique, Son of Late Md. Sidique, presently posted as Assistant Teacher at Urdu Girls Middle School Karimganj, Block - Nagar- Nigam (North), District- Gaya.
 8. Md. Afaque Nadeem, Son of Md. Nayeemur Rahman, presently posted as Headmaster at Middle School Gamhari, Block - Fatehpur, District- Gaya.
 9. Sunil Kumar Porh, Son of Sushil Kumar Porh, presently posted as TGT at Middle School Khanetu, Block - Tekari, District- Gaya.
 10. Satish Kumar Sinha, Son of Late Rajkumar Prasad Sinha, presently posted as Headmaster at Middle School Kanhaul, Block - Bodhgaya, District- Gaya.
 11. Amrendra Kumar, Son of Late Ramchandra Thakur, presently posted as TGT at Middle School Bishunpur, Block - Bankey Bazar, District- Gaya.
 12. Arun Kumar Chaudhary, Son of Raghuveer Chaudhary, presently posted as Headmaster at Middle School Dharampur, Block- Town Block, District- Gaya.
 13. Neeraj Kumar, Son of Late Rajaram Sharma, presently posted as TGT at Middle School Chakand-1, Block- Town Block, District- Gaya.
 14. Suresh Kumar Pal, Son of Late Balkeshwar Bhagat, presently posted as Headmaster at Middle School Dhibra, Block - Gurua, District- Gaya.
 15. Ramashish Chaudhary, Son of Puran Chaudhary, presently posted as TGT at Middle School Panchu Bigha, Block - Town Block, District- Gaya.
 16. Chandrabhushan Sharma, Son of Late Shambhu Sharan Singh, presently posted as Headmaster at Middle School Verda, Block - Nagar-Nigam (North), District- Gaya.
 17. Diwaker Kumar, Son of Late Mateshwar Prasad Singh, presently posted as



- Headmaster at Middle School Dharamshala, Block - Paraiya, District- Gaya.
18. Ajay Kumar Anil, Son of Ram Parikshit Singh, presently posted as Headmaster at Middle School Pura, Block - Tekari, District- Gaya.
 19. Rajesh Kumar Sharma, Son of Ram Subhag Singh, presently posted as Headmaster at Middle School Dhanawan, Block- Bodhgaya, District- Gaya.
 20. Khwaja Asad Alam, son of Khwaja Mahmood Alam, presently posted as TGT at Middle School Chandpur, Block - Bankey Bazar, District- Gaya.
 21. Khwaja Aslamujjaman, son of Khwaja Mahmood Alam, presently posted as TGT at Middle School Chandpur, Block - Bankey Bazar, District- Gaya.
 22. Rakesh Kumar Sinha, Son of Late Ganesh Prasad, presently posted as Headmaster at Middle School Kosma, Block - Town Block, District- Gaya.
 23. Bheem Prasad, Son of Late Ramkishor Lal, presently posted as TGT at Middle School Ore, Block - Belanganj, District- Gaya.
 24. Anand Mohan Rajak, Son of Late Watan Rajak, presently posted as Headmaster at Middle School Mahmudpur, Block - Sherghati, District- Gaya.
 25. Rajendra Prasad, Son of Late Manki Ram, presently posted as TGT at Manorma Girls Middle School, Block - Sherghati, District- Gaya.
 26. Kiran Kumari, daughter of Jagdish Bharti, presently posted as Headmaster at Middle School Dulhin Mandir, Block - Sherghati, District- Gaya.
 27. Digvijay Kumar, Son of Late Ramyad Singh, presently posted as Headmaster at Middle School Yogapur, Block - Sherghati, District- Gaya.
 28. Azizur Rahman, Son of Ziyaur Rahman, presently posted as TGT at Model Urdu Middle School, Block- Sherghati, District- Gaya.
 29. Margrate Samuel, Daughter of Danial Samuel, presently posted as Headmaster at Manorma Girls Middle School, Block - Sherghati, District- Gaya.
 30. Umesh Prasad Singh, son of Late Bachu Singh, presently posted as Headmaster at Middle School Fatehpur, Block - Fatehpur, District- Gaya.
 31. Shambhu Sharan Singh, Son of Kamta Prasad Singh, presently posted as Headmaster at Middle School Wazirganj, Block - Wazirganj, District- Gaya.
 32. Kedar Chaudhary, son of Basant Chaudhary, presently posted as Headmaster at Middle School Angra, Block- Dobhi, District- Gaya.
 33. Arvind Chaudhary, Son of Raghu Chaudhary, presently posted as Headmaster at Middle School Mardua, Block - Tekari, District- Gaya.
 34. Jitendra Kumar Kamal, son of Rajendra Prasad, presently posted as Assistant Teacher at Middle School Mardua, Block - Tekari, District- Gaya.
 35. Geeta Kumari, daughter of Chandrika Prasad, presently posted as Assistant Teacher at Manorma Girls Middle School Sherghati, Block - Sherghati, District- Gaya.
 36. Sona Kumari, daughter of Jugal Prasad, presently posted as Assistant Teacher at Manorma Girls Middle School Sherghati, Block - Sherghati, District- Gaya.
 37. Vijay Kumar Parimalendu, Son of Parmeshwar Dayal, presently posted as



Headmaster at Middle School Mahugain, Block - Wazirganj, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
3. The Director (Primary Education), Education Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
4. The District Education Officer, District- Gaya.
5. The District Program Officer (Establishment)-cum-Drawing and Disbursing Officer, Department of Education, District- Gaya.
6. The District Accounts Officer, District- Gaya.

... .. Respondent/s

with

Letters Patent Appeal No. 114 of 2022

In

Civil Writ Jurisdiction Case No.5489 of 2020

1. Dhananjay Singh son of Late Jagdish Singh presently posted as TGT at Middle School Bemta, Block- Town Block, District- Gaya.
2. Braj Kishore Prasad Rana son of Late Jio Nandan Prasad Singh presently posted as Assistant Teacher at M.S. Rasidpur Hindi, Block- Taraiya, District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. The Principal Secretary Education Department, Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Muzaffarpur.
5. The District Programme Officer (Establishment) Muzaffarpur.
6. The District Treasury Officer Muzaffarpur.
7. The District Education Officer, District- Gaya.
8. The District Program Officer (Establishment)-cum- Drawing and Disbursing Officer, Department of Education, District- Gaya.
9. The District Accounts Officer, District- Gaya.
10. The District Education Officer, District- Saran.
11. The District Program Officer (Establishment)-cum- Drawing and Disbursing Officer, Department of Education, District- Saran.
12. The District Accounts Officer, District- Saran.
13. Suresh Ram Son of Late Ugras Ram Resident of Village- Musaul Tola, Jahagirpur, P.S.- Sakara, District- Muzaffarpur.



... .. Respondent/s

with
Letters Patent Appeal No. 134 of 2022
In
Civil Writ Jurisdiction Case No.5489 of 2020

Suresh Ram Son of Late Ugras Ram Resident of Village Musaul Tola-
Jahagirpur, P.S.-Sakara, District-Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education, Government of Bihar, Patna.
4. The District Education Officer, Muzaffarpur.
5. The District Programme Officer (Establishment), Muzaffarpur
6. The District Treasury Officer, Muzaffarur.

... .. Respondent/s

with
Letters Patent Appeal No. 185 of 2022
In
CIVIL REVIEW No.37 of 2022

Rajiw Kumar Singh S/o- Late Ram Kumar Singh, R/o- Pawat, Post- Behara,
P.S.- Ara Mufassil, District- Ara (Bhojpur).

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Principal Secretary Department of Education, Government of Bihar, New Secretariat, Patna.
3. The Director (Primary Education), Department of Education, Government of Bihar, New Secretariat, Patna.
4. The Regional Deputy Director, Ara Division, Ara.
5. The District Magistrate, Ara.
6. The District Education Officer, District- Ara.
7. The District Program Officer, (Establishment), District- Ara.

... .. Respondent/s

with
Letters Patent Appeal No. 198 of 2022
In
Civil Writ Jurisdiction Case No.1606 of 2022

Rajiw Kumar Singh S/o Late Ram Kumar Singh R/o- Pawat, Post- Behara,
P.S.- Ara Mufassil, District- Ara (Bhojpur).



... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
3. The Director (Primary Education), Department of Education, Government of Bihar, New Secretariat, Patna.
4. The Regional Deputy Director, Ara Division, Ara.
5. The District Magistrate, Ara.
6. The District Education Officer, District- Ara.
7. The District Program Officer (Establishment), District- Ara.

... .. Respondent/s

with

Letters Patent Appeal No. 254 of 2022

In

Civil Writ Jurisdiction Case No.5489 of 2020

Rajiw Kumar Singh s/o Late Ram Kumar Singh, R/o -Pawat, Post-Behara, P.S.-Ara Mufassil, District-Ara (Bhojpur).

... .. Appellant/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Muzaffarpur.
5. The District Programme Officer (Establishment), Muzaffarpur.
6. The District Treasury Officer, Muzaffarpur.
7. The Regional Deputy Director, Ara Division, Ara.
8. The District Magistrate, Ara.
9. The District Education Officer, District-Ara.
10. The District Program Officer, (Establishment), District-Ara.
11. Suresh Ram, Son of Late Ugras Ram Resident of Village-Musaul Tola, Jahagirpur, P.S.-Sakara, District-Muzaffarpur.

... .. Respondent/s

with

Letters Patent Appeal No. 422 of 2022

In

Civil Writ Jurisdiction Case No.7158 of 2021

1. Nirbhay Kumar S/o Late Krishna Singh R/o-Mohalla-Arya Path Uttar Tola, Malah Chak More, P.O. and Block and District-Jahanabad, Presently Posted



- as Trained Graduate Teacher at Upgraded Middle School Damuhan, Block-Kako, District-Jahanabad.
2. Alamgir Shams, S/o-Md. Yusuf, R/o-Mohalla-Makhdumabad,, P.O. and Block and District-Jahanabad, Presently Posted as Assistant Teacher at Upgraded Middle School Dharampur, Block-Kako, District-Jahanabad.
 3. Ramashray Yadav Son of Ram Balak Yadav Resident of -Sati Sthan, Post-Makhdumpur, P.S.-Makhdumpur, District-Jahanabad, Presently Posted as Trained Graduate Teacher at Middle School Kohra, Block-Makhdumpur, District-Jahanabad.
 4. Anand Kumar Bharti Son of Sri Ram Avtar Ravidas, Resident of Khudaganj, Post-Khudaganj, P.S.-Khudaganj, District -Jahanabad, Presently Posted as Trained Graduate Teacher at Upgraded Middle School Keur, Block-Hulasganj, District-Jahanabad.
 5. Mukesh Kumar Son of Narendra Sharma Resident of Mohalla-Devariya, Post-Jahanabad Court, P.S.-Jahanabad, District-Jahanabad. Presently Posted as Trained Graduate Teacher at Upgraded Middle School Godiha, Block-Jahanabad, District-Jahanabad.
 6. Dhananjay Kumar Son of Shyam Nandan Sinha Resident of Village and Post-Jamuk, P.S. and District-Jahanabad, Presently Posted as Trained Graduate Teacher at Upgraded Middle School Chandra, Block-Kako, District-Jahanabad.
 7. Shivji Chaudhary Son of -Late Nathun Chaudhary, Resident of Village-Shaistabad, Post Shaistabad, P.S.-Ghosi, District-Jahanabad, Presently Posted as Trained Graduate Teacher at Upgraded Middle School Shaistabad, Block-Modanganj, District-Jahanabad.
 8. Ajay Singh Son of Late Ram Chandra Singh Resident of Mahmadpur, Post-Maranchi, P.S.-Dhanrua, District-Patna. Presently Posted as Trained Graduate Teacher at Upgraded Middle School Sikaria, Block-Jahanabad, District-Jahanabad.
 9. Dilip Kumar Son of Late Chandramani Prasad Resident of Shyam Nagar, Near Balti Factory, Post-Jahanabad, P.S.-Jahanabad, District-Jahanabad, Presently Posted as Trained Graduate Teacher at Upgraded Middle School Muther, Block-Jahanabad, District-Jahanabad.
 10. Vinod Kumar Son of -Late Nageshwar Prasad Resident of Mohalla-Gandhi Nagar, Post-Unta Purvi, P.S.-Jahanabad, District-Jahanabad, Presently Posted as Trained Graduate Teacher at Upgraded Middle School Safepur, Block-Kako, District-Jahanabad.
 11. Anil Kumar Son of Late babu Chand Singh Resident of Village-Gandhar math, Post-Bandhuganj, P.S.-Bandhuganj, District-Jahanabad, Presently Posted as Trained Graduate Teacher at Upgraded Middle School Bandeya, Block-Makhdumpur, District-Jahanabad.
 12. Bhupendra Kumar Bhushan Son of -Late Hridyanand Singh Resident of Village and Post-Januhari, P.S.-Mahendiya, District-Jahanabad, Presently Posted as Trained Graduate Teacher at Upgraded Middle School Larsa, Block-Jahanabad, District-Jahanabad.

... .. Appellant/s

Versus



1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
3. The Director (Primary Education), Education Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
4. The Regional Deputy Director of Education, Gaya Division, Gaya
5. The District Education Officer, District-Jahanabad.
6. The District Program Officer (Establishment)-Cum-Drawing and Disbursing Officer, Department of Education, District-Jahanabad.

... .. Respondent/s

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with

Letters Patent Appeal No. 425 of 2022

In

Civil Writ Jurisdiction Case No.15098 of 2021

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1. Dilip Kumar S/o Late Chandramani Prasad Resident of Shyam Nagar, Near Balti Factory, Post- Jahanabad, P.S.- Jahanabad, District- Jahanabad, Presently posted as Trained Graduate Teacher at Upgraded Middle School Muther, Block- Jahanabad, District- Jahanabad.
2. Sanjay Kumar S/o Late Shaligram Sharma Resident of Village- Mahmadpur, Post- Kajisarai, P.S.- Kako, District- Jahanabad, Presently posted as Trained Graduate Teacher at Upgraded Middle School Dadpur, Block- Hulasganj, District- Jahanabad.
3. Nirbhay Kumar S/o Late Krishna Singh R/o Mohalla- Arya Path Uttar Tola, Malah Chak More, P.O. and Block and District- Jahanabad, presently posted as Trained Graduate Teacher at Upgraded Middle School Damuhan, Block- Kako, District- Jahanabad.
4. Dhananjay Kumar S/o Shyam Nandan Sinha Resident of Village and Post- Jamuk, P.S. and District- Jahanabad, Presently posted as Trained Graduate Teacher at Upgraded Middle School Chandaurya, Block- Kako, District- Jahanabad.
5. Mukesh Kumar S/o Narendra Sharma Resident of Mohalla- Devariya, Post- Jahanabad Court, P.S.- Jahanabad, District- Jahanabad, Presently posted as Trained Graduate Teacher at Upgraded Middle School Godiha, Block- Jahanabad, District- Jahanabad.
6. Vidyut Kumar S/o Late Lalan Prasad Resident of Village and Post and P.S.- Ghoshi, District- Jahanabad, Presently posted as Trained Graduate Teacher at Upgraded Middle School Ganeshibigha, Block- Kako, District- Jahanabad.
7. Mukund Murari S/o Anandi Sharma Resident of Mohalla- Vishunganj, Post and P.S. and District- Jahanabad, Presently posted as Trained Graduate Teacher at Upgraded Middle School Kalpa Khurd, District- Jahanabad.
8. Umesh Kumar S/o Late Sukhdeo Yadav Resident of Khajurbana, Post- Ratni Bazar, P.S.- Shakurabad, Block- Ratni Faridpur, District- Jahanabad,



Presently posted as Trained Graduate Teacher at Upgraded Middle School
Pandaul, Block- Ratni Faridpur, District- Jahanabad.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
3. The Director (Primary Education), Education Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
4. The Regional Deputy Director of Education, Gaya Division, Gaya.
5. The District Education Officer, District- Jahanabad.
6. The District Program Officer (Establishment)-cum-Drawing and Disbursing Officer, Department of Education, District- Jahanabad.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 255 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Priyadarshir Matrisharan, AC to AAG-13

(In Letters Patent Appeal No. 114 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Priyadarshir Matrisharan, AC to AAG-13

(In Letters Patent Appeal No. 134 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Priyadarshir Matrisharan, AC to AAG-13

(In Letters Patent Appeal No. 185 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Priyadarshir Matrisharan, AC to AAG-13

(In Letters Patent Appeal No. 198 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Priyadarshir Matrisharan, AC to AAG-13

(In Letters Patent Appeal No. 254 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Ajay Kr. Rasotig (Aag10)

(In Letters Patent Appeal No. 422 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Apurva Kumar, AC to GA-12

(In Letters Patent Appeal No. 425 of 2022)

For the Appellant/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Apurva Kumar, AC to GA-12

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-01-2023

In these bunch of L.P.As. appellants have assailed



the order of the learned Single Judge dated 22.03.2022 passed in C.W.J.C. No. 2804 of 2022. Order of the learned Single Judge reads as under:-

"Heard the parties.

Considering it that this matter is covered by the Judgment dated 23.02.2022, passed in **C.W.J.C. No. 5489 of 2020 (Suresh Ram Vs. The State of Bihar & Ors.)** and connected matters reported in **2022 (2) B.L.J., 381** and the Judgment dated 07.03.2022, passed in **C.W.J.C. No. 34 of 2022 (Minakshi @ Sushre Minakshi & Anr. Vrs. The State of Bihar & Ors.)**, this petition is disposed of with the above terms.

If an appeal is preferred before the District Appellate Authority/ State Appellate Authority, the same shall be taken up at the earliest and preferably decided within a period of three months."

Learned counsel for the appellants submitted that the decided case in the case of **Suresh Ram** is in respect of such of those persons who were appointed as Panchayat Teacher in the respective Panchayat. On the other hand, appellants' case are that they were appointed as Teacher in the Education Department of State of Bihar and they were recruited through the BPSC and they are governed by a separate rule of recruitment. Therefore, the cited decision by the learned Single Judge is not applicable to the case of the appellants.

The aforementioned statement has not been disputed by the learned State Counsel.



In the light of these facts and circumstances, order of the learned Single Judge dated 22.03.2022 passed in C.W.J.C. No. 2804 of 2022 is set aside and all the C.W.J.C. petitions are remanded to the learned Single Judge.

During course of the argument, we noticed that in the prayer made by each of the appellants that there is no challenge to the decision of the concerned respondent in so far as re-fixation of pay and it is to the disadvantage of the appellants. In the absence of challenge to the decision the prayer of the appellants to the extent of declaration is not permissible. They are at liberty to make necessary amendment of prayer by filing Interlocutory Application in the respective writ petitions.

With the above observations, present L.P.As. stands disposed of.

At this stage, learned counsel for the State-Respondent submitted that the appellants are governed by the Bihar State Teaching Institutions Teachers and Employee (Dispute Redressal and Appeal) Rules, 2020. Aforementioned rules are not attracted in so far as appellants are concerned for the reasons that they are not working as a Teacher in the Bihar State Teaching Institutions as Teachers so as to invoke the aforementioned rules. Accordingly, the aforesaid contention of



the learned counsel for the State is hereby rejected.

Further it is noticed that the Bihar State School Teachers and Employees Dispute Redressal Rules, 2015 was repealed in the year 2020.

Perusal of Rules, 2015 it is crystal clear that it was issued under Article 162 read with 243 of the Constitution of India whereas the appellants' case is covered by Rules called "*Bihar Nationalized Preliminary School Teachers Transfer, Disciplinary Action and Promotion Rules, 2018*" which was issued under Article 309 of the Constitution, vide Notification dated 21st March, 2018.

In the light of these three sets of Rules read with status of the appellants it is clear that they are Government Teachers and ultimately they are governed by Rules, 2018. Hence, the cited decisions by the learned Single Judge are not applicable to the appellants' case.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.01.2023
Transmission Date	NA

