

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.348 of 2018

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1. The Bihar Pensioner Samaj, Zila Shakha and Ors S/o Late Govind Chaudhary, R/o Naya Bazar, P.S.- Adampur, District- Bhagalpur.
 3. Kapildeo Rai, Secretary Bihar Pensioner Samaj, Zila Shakha Bhagalpur, Son of Late Hiyalal Rai, Resident of Mohalla- P.D. Nagar, P.S.- Barari, District- Bhagalpur.
 4. Asharfi Singh, S/o Late Sunder Prasad Singh, State President, Bihar Arajpatrit Prarmbhik Shikshak Sangh, Bihar, Resident of Mohalla- Ishakchak North Tola, P.S.- Ishakchak, District- Bhagalpur.
 5. Vivekanand Chaudhary, Son of Late Navaji Chaudhary, Resident of Village- Sonbarsa Diyara, P.S.- Biipur, District- Bhagalpur.
 6. Jaideo Chaudhary, Son of Late Giro Chaudhary, Resident of Village- Kathela, P.O.- Kharik Bazar, P.S.- Kharik, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director Primary Education, Government of Bihar, Patna.
3. Principal Secretary, Finance Department, Bihar, Patna.
4. The Divisional Commissioner, Bhagalpur.
5. Accountant General, Bihar, Birchand Patel Path, Patna-01.
6. District Education Officer, Bhagalpur.
7. The District Programme Officer Establishment, Bhagalpur.
8. The Treasury Officer, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms.Pravina Kumari
For the State	:	Mr. Madhukar Mishra, AC to SC 16
For Accountant General	:	Mr. Chaitanya Swaroop

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

8 14-03-2023 This writ application is confined to petitioner nos. 5 and 6 only.

Heard learned Counsel for the parties concerned.



Learned Counsel for the petitioners submits that by Annexure-2, some of the similarly situated teachers have been given in Grade-3 scale in the light of Elementary School Teacher Promotion Rules, 1993, but the petitioners have wrongly been denied. She submits that the petitioner no. 5 was given promotion in Grade-2 with effect from 01.04.1981 and the petitioner no. 6 was given promotion in Grade-2 with effect from 09.03.1982. She further submits that the petitioners have wrongly been denied their promotion in Grade-3 with effect from 01.04.1999 and 09.03.2000 respectively by applying the wrong provision of the Rules.

Learned Counsel for the State submits that as per Rule 14 of the Rules, 1993, there is a provision of appeal before the Divisional Commissioner, if any teacher is aggrieved by the order of promotion.

In view of the fact that the petitioners have approached this Court directly without approaching the Appellate Authority, i.e., the Divisional Commissioner, this writ application is disposed with liberty to the petitioner nos. 5 and 6 to file an appeal before the Appellate Authority, i.e. the Divisional Commissioner, within a period of thirty days from today.



It is made clear that if such an appeal is filed by the petitioners, the same shall be considered and disposed by the Divisional Commissioner on its merits by a reasoned order within a period of three months from the date of filing of the appeal.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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