

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4384 of 2018

1. Md. Hasnain Son of Late Bakareed Miyan, Resident of Village-Madhopur, Police Station-Gaunaha, District-West Champaran.
2. Sahanti Kumar Sah Son of Late Amar Chand Saha, Resident of Village-Pipra Colony Police Station Sahodara, District-West Champaran.
3. Rajdeo Kazi Son of Jagdeo Kazi, Resident of Village-Shekh Maszidwa, Police Station-Matiyaria District-West Champaran.
4. Mobin Khan Son of Late Hadish Khan, Resident of Village-Piparia, Police Station-Gaunaha, District-West Champaran.
5. Birendra Prasad Son of Late Ram Autar Panjiyar, Resident of Village-Kanchanpur, Police Station-Sahodara, District-West Champaran.
6. Radhe Shyam Prasad , Son of Late Subba Mahto, Resident of Village-Ekwa, Police Station-Sahodra, District-West Champaran.
7. Sugriv Ram Son of Late Narayan Ram, Resident of Village-Ban Bariya, Police Station-Sahoara, District-West Champaran.
8. Kanahaiya Prasad Son of Late Raghunath Sah, Resident of Village-Gaunaha, Police Station-Gaunaha District-West Champaran.
9. Md. Nasim @ Nasim Ahamad Son of Sadrudin Resident of Village-Madhopur, Police Station-Gaunaha, District-West Champaran.
10. Subh Narayan Panjiyar @ Subh Narayan Prasad Son of Late Krishna Pranjiyar, Resident of Village-Kanchanpur, Police Station-Sahodara, District-West Champaran.
11. Rishi Raj Rao Son of Kirshan deo Rai, Resident of Village-Dumariya, Police Station-Sahodara, District-West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, old Secretariat, Patna
2. The Principal Secretary, Department of Human Resource Government of Bihar, Patna.
3. The Principal Secretary, Department of Personal and Administrative reforms, Bihar, Patna.
4. The Commissioner Cum Secretary, Education Department, Government of Bihar, Patna.
5. The Director Mass Education, Education Department, Government of Bihar Patna.
6. The District Magistrate, West Champaran at Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Sanjay Kumar No VII, Advocate
For the Respondent/s : Mr S K Ranjan, AC to GP XVII



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CORAM: HONOURABLE MR JUSTICE RAJIV ROY

ORAL ORDER

4 **25-09-2023** No one appears for the petitioners though State is present.

2 The prayer is for the following reliefs:

(i) For issuance of a writ/writs, order/orders, direction/directions to respondents to consider the case of petitioners in pursuance of order passed in CWJC No 4818 of 2010, LPA No 1489 of 2011 and Hon'ble Supreme Court in SLA (C) No 32079 of 2015 for their appointment as letter issued by respondents in pursuance to order of Government of Bihar (contained Annexure 1).

(ii) For any other relief/reliefs to which the petitioners are found entitled."

3 The petitioners were waiting in the wings and now when the Hon'ble Apex Court in the case of ***State of Bihar & Others -Versus- Prabhat Ranjan (SLP (C) No 32079 of 2015*** as also this Court in the case of ***State of Bihar & Others -Versus- Harendra Mishra & Others (Civil Review No 59 of 2018)*** put a bar of 26.02.2016 for those who approached this Court, no relief can be granted to them. Relevant paragraphs of the judgment rendered in the case of ***Harendra Mishra & Others (supra)*** read as under:

"16 The issue has now attained its finality with the final decision of the Supreme Court rendered on 02.12.2021, in the case of



State of Bihar & Others -Versus Meera Kumari & Another, relevant portion of which has been noted hereinabove. The Supreme Court has reiterated that whereas it is true that generally similarly situated persons, irrespective of whether they moved the Court or not, must be similarly treated, the said principle cannot be applied when the Supreme Court had spoken and pronounced the order in terms as the order dated 26.02.2016.

17 The Supreme Court's decision in the case of State of Bihar & Others -Versus- Meera Kumari & Another is near reiteration of specific observations made by the Supreme Court in its order dated 26.02.2016.

18 It is an admitted fact that the private respondents (writ petitioners) had not approached this Court or the Supreme Court either by filing writ application or intervention application or otherwise on or before 26.02.2016.

19 In view of the Supreme Court order dated 26.02.2016 and the subsequent decision rendered on 02.12.2021 in the case of State of Bihar & Others -Versus- Meera Kumari & Another, in order to obviate any scope of doubt, we conclude that no person, claiming to have been appointed as an Instructor under Non Formal Education Scheme, can seek absorption on the strength of a coordinate Bench decision of this Court in the case of State Government of Bihar & Others -Versus- Sheo Bhajan Prasad Diwakar & Others, unless it is demonstrated that he/she is eligible to be considered in the light of the observation made by the Supreme Court in its order dated 26.02.2016 (supra), subsequently reiterated and explained by the Supreme Court in its decision dated 02.12.2021 in the case of State of Bihar & Others -Versus- Meera Kumari & Another. Situated thus, we are of the opinion that as the



order under review was passed by this Court in ignorance of the interim order passed by the Supreme Court dated 25.01.2017, in the case of State of Bihar & Others -Versus- Meera Kumari & Another, and in the light of the admitted fact that the private respondents have not approached either this Court or the Supreme Court on or before 26.02.2016, the order dated 23.01.2018 passed in LPA No 1047 of 2017 is liable to be recalled. The decision of the learned Single Judge dated 03.03.2017 passed in CWJC No 384 of 2017, which was filed by the writ petitioners, is based on a coordinate Bench's decision of this Court in the case of State of Bihar & Others -Versus- Meera Kumari & Another. An order passed by the learned Single Judge dated 03.03.2017, which was challenged by the State of Bihar by preferring LPA No 1047 of 2017, reads as under:

“In between an issue was raised by one Meera Kumari and Punam Devi before this Court by filing Miscellaneous Jurisdiction Case No 3765 of 2016 complaining that the relief was being restricted to only those persons who are party to the proceedings and not being extended to other similarly situated persons. The Division Bench clarified the position by passing the following order:

“3 To us, problem is simple. The Apex Court, in the case of Ahswani Kumar & Others -Versus- State of Bihar & Others, since reported in AIR 1997 Supreme Court 1628, in paragraph 17, has clearly held that all persons, similarly situated, whether they have moved the Court or not, must be similarly treated. Those, 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. In our view, similar is the provision of Clause 4.C (1) of the Bihar State Litigation Policy which clearly envisages that not everybody is required to move the Court. Persons, in similar



circumstances, must be treated similarly.

4 In that view of the matter, all we say is if the authorities find that the petitioners are similarly circumstanced to the other persons, they would be similarly treated.

In view of the developments noted above, the case of the petitioners would also require a consideration by the respondents. It is stated by Mr Mishra that although these petitioners have already applied but the matter is not being disposed of.

Having heard learned counsel for the parties and considering that the issue stands settled, I deem it proper to dispose of all these writ petitions with a direction to respondents No 2 to 4 to consider the claim of the petitioners in the backdrop of the issues settled by the Court and dispose of the same within a maximum period of three months from the date of receipt/production of a copy of this order.

All the writ petitions are accordingly disposed.”

20. As has been discussed above, as the writ petitioners had admittedly not approached this Court or the Supreme Court on or before 26.02.2016, no relief could have been granted to them. The writ petition filed by them, I e, CWJC No 384 of 2017, deserved to be dismissed. Accordingly, we set aside the order dated 03.03.2017 passed in CWJC No 384 of 2017.

21 Accordingly, the review application stands allowed. The writ petition is accordingly dismissed. The LPA No 1047 of 2017 stands allowed.

All Interlocutory Applications stand disposed of.”



4 Be that as it may, since no one has appeared, this writ
petition is dismissed for non-prosecution.

(Rajiv Roy, J)

M.E.H./-

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