

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13541 of 2019

1. Shashi Kala wife of Sri Madan Kumar Singh resident of village and post office Karsant, Police Station Daramda, District- Siwan.
2. Anil Kumar Mishra son of Bhirgunath Mishra resident of Ratanpura Mirchaiya Tola Daulatganj Ojha Toli, Post Office Chapra, Police Station Bhagwan Bazar, District- Siwan.
3. Ganesh Kumar Pathak son of Tej Narain Pathak Resident of Village and Post Office Chapra, Police Station Punchrukhi, District- Siwan.
4. Amar Nath Pandey son of Ramjee Pandey Resident of Village- Parauli, Post Office Tilauta, Police Station Pachrukhi, District Siwan.
5. Punita Devi wife of Satyendra Kumar Singh Resident of Village and Post Office Bindusar Burz, Police Station Siwan, District Siwan.
6. Dhananjay Kumar Mishra son of Ramchari Mishra Resident of Village- Akopur, Post Office Bindusar, Police Station- Siwan, District- Siwan.
7. Rekha Kumari wife of Rajesh Kumar resident of Village and Post Office Madamadpur, Police Station Garkha, District- Saran.
8. Biresh Ram son of Gopal Ram Resident of Village- Madanpura, Post Office Harpur, Police Station- Ekma, District Chapra.
9. Pawan Kumar Dubey son of Late Singhasan Dubey Resident of Village and Post Office Hakam, Police Station Siwan, District Siwan.
10. Harender Baitha son of Shri Ramnath Baitha Post Office Hardiya, Police Station- Panchrukh, Via Station Road, Siwan, District- Siwan.
11. Lalit Vijay Singh son of Kanhaiya Singh Resident of Village and Post Office Newari, Police Station Raghunathpur, District Siwan.
12. Sanjay Kumar Sharma son of Late Shiv Prasad Sharma Resident of Village- Badhauni, Post Office Husainganj, Police Station Husainganj, District Siwan.
13. Amarnath Ram son of Late Ram Dev Ram Resident of Village- Mauzampur, Post Office Naraw, District Saran.
14. Surendra Ram son of Shri Failam Ram Resident of Village- Mauampur, Post Office Naraw, Police Station Abatasagar, District Saran.

... .. Petitioner/s

Versus

1. Jai Prakash University Chapra through its Registrar.
2. Vice- Chancellor, Jai Prakash University, Chapra.
3. The Registrar, Jai Prakash University, Chapra.
4. The Finance Officer, Jai Prakash University, Chapra.
5. The Principal, D.A.V. College, Siwan.
6. The State of Bihar, through the Principal Secretary, Education Department, Government of Bihar, Patna.



... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12514 of 2021

1. Sanjeev Kumar son of Late Shivjee Prasad resident of Ward no. 1, Madhepura, P.S. and District Madhepura, at present working as Lower Division Clerk (L.D.C.) Examination Department, B.N. Mandal University (B.N.M.U), Madhepura.
2. Prithviraj Yaduvanshi son of Sri Ram Sagar Prasad Yadav resident of Goshala Chowk, Ward no. 4, Madhepura, P.S. and District Madhepura, at present working as Computer Operator, Central Library, B.N.M.U, Madhepura.
3. Mithilesh Kumar son of Bhupendra Narayan Singh resident of Kabir Nagar, Ward no. 3, Madhepura, P.S. and District Madhepura, at present working as L.D.C., Examination Department, B.N.M.U., Madhepura.
4. Chandeshwari Prasad Yadav son of Kuldip Yadav resident of Village Hariharpur, P.S. Chhatapur, District Supaul, at present working as L.D.C., Examination Department, B.N.M.U., Madhepura.
5. Ratan Kumar son of Chaturbhuj Mahto resident of University Chowk, Ward no. 4, Madhepura, P.S. and District Madhepura, at present working as L.D.C., Finance Department, B.N.M.U., Madhepura.
6. Ranjit Kumar son of Murlidhar Singh Mast, resident of Village Kolwara, P.S. Saraiya, District Muzaffarpur, at present working as L.D.C. in Proctor Office, B.N.M.U., Madhepura.
7. Kamal Kishore Thakur son of Laxmi Narayan Thakur resident of Village Rahamganj, Post Lalbagh, District Darbhanga, at present working as L.D.C. in D.S.W. Office, B.N.M.U., Madhepura.
8. Ram Narayan Kaushik son of Kishundeo Prasad Yadav resident of Goshala Chowk, Ward no. 4, Madhepura, P.S. and District- Madhepura, at present working as L.D.C., Examination Department, B.N.M.U., Madhepura.
9. Shailendra Yadav son of Jainarayan Yadav resident of Village Belodih, P.S. Murliganj, District Madhepura, at present working as L.D.C., Sports Department, B.N.M.U., Madhepura.
10. Shashi Prasad Yadav son of Nathu Prasad Yadav resident of Navtolia, Ward no. 1, Madhepura, P.S. and District Madhepura, at present working as L.D.C., Examination Department, B.N.M.U., Madhepura.
11. Vinod Kumar Singh son of Swarna Mani Singh resident of Ganesh Asthan, Post Sahugarh 2, Madhepura, District Madhepura, at present working as Computer Operator, Finance Department, B.N.M.U., Madhepura.
12. Akhileshwar Narayan son of Deep Narayan Mandal resident of Ward no. 4, P.S. Gwalpara, District- Madhepura, at present working as L.D.C., Development Section, B.N.M.U., Madhepura.

... .. Petitioner/s

Versus



1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Deputy Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Education Department, Govt. of Bihar, Patna.
4. The B.N. Mandal University, Madhepura, through its Registrar.
5. The Vice Chancellor, B.N. Mandal University, Madhepura.
6. The Registrar, B.N. Mandal University, Madhepura.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 13541 of 2019)

For the Petitioner/s : Mr. Sanjay Kumar Verma, Adv.
Mr. Ajit Kumar Singh, Adv.

For the Respondent No. 5 : Mr. Nirmal Kumar, Adv.
Mr. Umesh Prasad, Adv.

For the State : Mr. Prabhat Ranjan Singh, AC to AAG 12
For the J.P.U. ; Mr. Ritesh Kumar, Adv.

(In Civil Writ Jurisdiction Case No. 12514 of 2021)

For the Petitioner/s : Mr. Harendra Pd. Singh, Adv.
Mr. Anand Ojha, Adv.
Mr. Abhishek Raj, Adv.

For the University : Mr. Shashi Bhushan Singh, Adv.
For the State : Mr. Madhukar Mishra, AC to SC 16
For the B.A.S.U. : Mr. Anjani Kumar, Sr. Adv.
Mr. Alok Kumar Rahi, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

5 24-02-2023 1. Learned counsel submits that the petitioners are similarly placed as those who were petitioners in **C.W.J.C. No. 12758/2021 (Rajeshwar Roy & Ors. Vs. State of Bihar & Ors.)** and **C.W.J.C. No. 13843/2021 (Bimal Kumar & Ors. Vs. State of Bihar & Ors.)** which was decided by this Court on 20th October 2022 were allowed and following directions were issued:-

“In the opinion of this Court, the petitioners, who are performing their duties cannot be denied their



salary merely because the respondents have now found that the roster at the time of appointment was not properly followed. If at best any back log of any particular post is to be filled, the procedure is otherwise. It cannot be a ground to deny salary to the petitioners and other persons, who are performing their duties and serving in the university.

In the case of Umesh Kumar Suman & Ors. Vs. State of Bihar & Ors. in C.W.J.C. No. 7648 of 2020, the Additional Chief Secretary-cum-Head of the Education Department was personally called in the Court with regard to non-payment of salary to the teachers and he had stated before this Court that if any person is performing his duty he is entitled for receiving salary. Not only the Additional Chief Secretary stated so, he implemented his statement by passing orders to the education department authorities for payment of salary to all the teachers who are performing their duties. The said principal would apply to the staff and petitioners also, who are performing their duties in the teeth of such statement made by the Additional Chief Secretary, the supplementary affidavit filed by the Deputy Secretary, Higher Education is found to be contrary to the stand of the government. The State authorities are expected to follow same norms in all the cases and unnecessary litigation should be avoided. Even otherwise, in terms of Article 23 of the Constitution of India, no person can be asked to perform duties without payment of salary. In other words,



Begar is prohibited but in the present cases, this court finds that since March, 2020 salary has not been released.

Keeping in view thereto, these writ petitions are allowed with direction to the respondents to release the salary forthwith not later than 10 days from the receipt of the order of this Court. No cost.”

Keeping in view thereto, the petitioners salary be also released accordingly.

2. I have considered the submission. Taking into consideration the facts being similar the respondents are directed to release the salary of the petitioner forthwith not than the 10 days from the receipt of the copy of this order.

3. The writ petition is accordingly disposed of.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 2 & 2.2

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