

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14575 of 2023

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1. Harsh Kumar Son of Pramod Kumar Roy Resident of village- Arihana, P.S.- Azamnagar, District- Katihar.
 2. Rajesh Kumar Jha son of Gaja Nand Jha, Resident of village- Bakhri Milik, P.S. Kursa Kanta, District- Araria.
 3. Krishna Mohan Poddar son of Nakul Dev Poddar, resident of village- Shanti Tola fasia, P.S. Katihar, District- Katihar.
 4. Sita ram Pandit son of Kokay Pandit, resident of village- Barari, P.S. Barari, District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Special Director, Secondary Education, Education Department, Government of Bihar, Patna.
4. The Joint Secretary, Education Department Government of Bihar, Patna.
5. The District Education Officer, Katihar, District Katihar.
6. The District Program Officer (Establishment) katihar, District Katihar.
7. The District Program Officer (Secondary Education) Katihar, District Katihar.
8. The Bihar State Sanskrit Education Board, Patna, through its Secretary, Harding Road Patna, District-Patna.
9. The Secretary, Sanskrit Education Board, Harding Road Patna, District -Patna.
10. The Head Master, Nidhinath Sanskrit High School, Katihar, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Md. Musowir, Advocate



For the Respondent/s : Mr.P.K. Shahi (AG)
Mr. Satyam Shivam Sundaram, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-12-2023

The issue raised herein revolves around two resolutions, one dated 15.02.2011 and the other dated 31.08.2013; which controversy was resolved by the judgment of this Court in CWJC No. 985 of 2015 dated 27.03.2019. A reading of the said decision would indicate that there were 1128 Madarsas in the State of Bihar that were recognized as aided Madarsas managed by private bodies. The resolution dated 15.02.2011 took note of 2459 unrecognized and unaided Madarsas, registered with the Madarsa Board which were also sought to be brought into the grant-in-aid list, for the purpose of extending State benefit to them. The resolution dated 15.02.2011 specifically provided for granting Government aid to such unrecognized Madarsas for which purpose a departmental survey was contemplated to determine the status of the said Madarsas and enable grant-in-aid to those found eligible. As far



as grant-in-aid with respect to salaries to be paid to the employees of the Madarsas, a fixed rate was provided which was applicable only to those unrecognized Madarsas as on 15.02.2011. Later, by the impugned resolution dated 31.08.2013, the fixed rate was sought to be applied in respect of all appointments in the Madarsas and Sanskrit schools irrespective of their status of recognition and receipt of grant-in-aid prior to 15.02.2011. In essence, the argument of the State was that the resolution of 15.02.2011 applied to all the Madarsas, both recognized and un-recongized. The Division Bench held that the resolution dated 15.02.2011 was only applicable to the un-recongized Madarsas and appointments made to such Madarsas after recognition is granted to enable grant-in-aid. The said resolution did not at all deal with the Madarsas which were receiving grant-in-aid before 15.02.2011. It was by the resolution dated 31.08.2013 that the condition of a consolidated sum of salary was sought to be imposed on all the Madarsas and Sanskrit schools. The said resolution could not have been applied retrospectively to appointments made before 31.08.2013; especially when the resolution of 15.02.2011 did not at all bring in such condition to the appointments made in Madarsas which were already receiving grant-in-aid. The



persons who were appointed to the Madarsas recognized and aided prior to 15.02.2011; between 15.02.2011 and 31.08.2013, were appointed to and occupying regular posts with regular pay scales which could not have been interfered with retrospectively, thus, depriving those persons of the regular pay of scale. We bow to the above proposition and find no reason to depart from the same.

2. Insofar as the petitioners are concerned, it is claimed they were appointed after 15.02.2011 but before 31.08.2013. We do not however see any averment as to the petitioners' appointments having been made to Sanskrit school which was recognized prior to 15.02.2011. In any event, if the separate appointments of the petitioners were made to such Sanskrit school, which was recognized prior to 15.02.2011 and which received grant-in-aid prior to that date, necessarily, the petitioners would be entitled to be continued in the pay scale to which they were appointed, if they were appointed between 15.02.2011 and 31.08.2013 and there could be no modification made based on the subsequent resolution dated 31.08.2013.

3. With the above declaration, the writ petition is disposed of directing the petitioners to make appropriate representation before Respondent No. 3 specifically indicating



their date of appointment and also furnishing evidence as to their date of appointment as also the recognition of their Sanskrit school prior to 15.02.2011. The representation shall be considered and disposed of based on the cited decision within a period of three weeks from the date of furnishing of evidence.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	08.12.2023
Transmission Date	

