

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2570 of 2020

1. Ravindra Kumar Yadav Son of Harihar Yadav, Resident of Village- Singhiya, P.O. Gaura, P.S.- Laxmipur, District- Jamui.
2. Chunchun Yadav, Son of late Gopi Yadav, Resident of Village- Bhandra, P.O. Numar, P.S. Barhat, District- Jamui.
3. Om Prakash Kumar, Son of Ragho Prasad Yadav, Resident of Village- Numar, P.O. Numar, P.S. Barhat, District- Jamui.
4. Lalan Kumar Saw, Son of late Khiru Saw, Resident of Village- Tetariya, P.O. Tadha, P.S. Barhat, District- Jamui.
5. Shiv Shankar Yadav, Son of Rita Yadav, Resident of Village Darima, P.S. Khaira, District- Jamui.
6. Sunita Kumari, Wife of Surendra Prasad Yadav, Resident of Village- Dighra, P.O. Gaura, P.S. Laxmipur, District- Jamui.
7. Baby Kumari, Wife of Krishnadeo Yadav, Resident of Village and P.O. Numar, P.S. Barhat, District- Jamui.
8. Shambhu Prasad Son of Nageshwar Prasad Yadav, Resident of Village and P.O. Numar, P.S. Barhat, District- Jamui.
9. Devendra Yadav, Son of Kameshwar Yadav, Resident of Village- Numar, P.O. Numar, P.S. Barhat, District- Jamui.
10. Ravindra Prasad Yadav, Son of Basudeo Yadav, Resident of Village- Chhatarpur, P.O. and P.S. Gidhaur, District- Jamui.
11. Yogendra Yadav, Son of Dhathuri Yadav, Resident of Village- Magahi, P.O. Dighi, P.S. Laxmipur, District- Jamui.
12. Chandrika Yadav, Son of Maho Yadav, Resident of Village- Magahi, P.O. Dighi, P.S. Laxmipur, District- Jamui.
13. Makeswar Yadav, Son of Jitan Yadav, Resident of Village- Numar, P.S. Barhat, District- Jamui.
14. Shankar Yadav, Son of Sri Dwrika Prasad Yadav, Resident of Village- Numar, P.S. Barhat, District- Jamui.
15. Shahindta Kumari, Wife of Baleshwar Prasad Gupta, Resident of Village- Bangama, P.S. Barhat, District- Jamui.
16. Shankar Kumar Singh, Son of late Manohar Singh, Resident of Village- Lagma, P.S. Jamui, District- Jamui.
17. Dinesh Prasad Yadav, Son of late Ajo Yadav, Resident of Village Choudiha, P.S. and District- Jamui.
18. Arun Kumar Yadav, Son of Ram Lakhan Yadav, Resident of Village Bhauratand, P.S. Gidhaur, District- Jamui.
19. Anil Kumar, Son of Raghunath Prasad, Resident of Village- Paharpur, P.O. Nayagaon, P.S. Gidhaur, District- Jamui.
20. Indu Prabha Kumari, Wife of Sitaram Yadav, Resident of Village Maura, P.O. Maura, P.S. Gidhaur, District- Jamui.



21. Balmiki Mandal, Son of Jagdish Mandal, Resident of Village- Tari Paharpur, P.O. Nayagaon, P.S. Gidhaur, District-Jamui.
22. Arvind Kumar, Son of Chhotan Yadav, Resident of Village and P.O.- Aghara, P.S. and District- Jamui.
23. Sitaram Yadav, Son of Huro Yadav, Resident of Village- Maura, P.S. Gidhaur, District- Jamui.
24. Umesh Yadav, Son of Late Sitaram Yadav, Resident of Village Dariya More Gari Bishanpur, P.S. Khaira, District- Jamui.
25. Moti Lal Yadav, Son of late Durga Yadav, Resident of Village Bajrahi, P.S. Khaira, District- Jamui.
26. Kumari Reeta Prabha Wife of Shri Rajeev Kumar, Resident of Village- Khaira, P.S. Khaira, District- Jamui.
27. Rajeev Kumar, Son of late Kaleshwar Prasad Rawat, Resident of Village- Khaira, P.S. Khaira, District- Jamui.
28. Dinesh Yadav, Son of Jagat Narain Yadav, Resident of Village- - Tenghara, P.S. Barhat, District- Jamui.
29. Md. Besat Alam, Son of Md. Ilyas, Resident of Village- Premdiha, P.O. Mohaddinagar, P.S. Halsi, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna.
2. The Principal Secretary Department of Human Resource Development, Bihar, Patna.
3. The Principal Secretary, Department of Personnel and Administration Reforms, Bihar, Patna.
4. The District Magistrate, Jamui.
5. The District Magistrate, Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad, Advocate
	:	Mr. Mritunjay Kumar, Advocate
For the Respondent/s	:	Ms. Binita Singh (Sc28)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 14-09-2023

Heard the parties.

2. The petitioners moved before this Court for the following relief:-

"That this is an application for issuance of



a writ in a nature of mandamus commanding and direction the respondent authorities to adjust the petitioners against the suitable post like the Non formal Supervisors, who have been appointed on the basis of stipend (Mandey) like the petitioners;"

3. From the records, it is clear that petitioners are fence sitter and approached the court only after lots of water has flown down the Ganges *inasmuch* as the Hon'ble Apex Court in **SLP (c) No. 32079 of 2015 (The State of Bihar & Ors. Vs. Prabhat Ranjan)** has earlier observed as follows:-

"We find infirmity in the order impugned herein. The Special Leave Petitions are dismissed.

The relief granted by the High Court shall be restricted to those who approached the High Court who were heard as well as who wanted to get themselves impleaded and those who have filed applications here at par with those former as well as all those petitioner Instructors which are pending as on date before the High Court but shall not apply to any fresh case either here or before the High Court.

Pending applications, if any, stand disposed of."



4. It has again been clarified by Patna High Court in **Civil Review No 59 of 2018** arising out of **LPA No. 1047 of 2017** which read as follows:

*“16. The issue has now attained its finality with the final decision of the Supreme Court rendered on 02.12.2021, in case of **The State of Bihar and others V/s Meera Kumari and 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 case of **the State of Bihar and others V/s Meera Kumari and 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 case of **the State of Bihar and others V/s Meera Kumari and 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 Co-ordinate Bench decision of this Court in case of **the State Government of Bihar and others V/s Sheo Bhajan Prasad Diwakar and 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 **the State of Bihar and others V/s Meera Kumari and 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 **the State of Bihar and others V/s Meera Kumari and 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 Co-ordinate Bench's decision of this Court in the case of **the State of Bihar and others V/s Meera Kumari and 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. 3765/2016 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 Ashwani Kumar & others v/ 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) 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 of."

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.

22. All Interlocutory applications stand disposed of. "

5. In view of the aforesaid two orders, the petitioners admittedly came after the cut-off-date 26.02.2016, no relief can be granted.

6. The writ petition accordingly stands disposed of.

(Rajiv Roy, J)

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