

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3739 of 2020

1. Dilkhush Kumar, Son of Sri Triveni Sharma, Resident of Village-Nadhi, P.O.-Morho, P.S. and District-Madhepura.
2. Bhupendra Ram, Son of Maheshwari Ram, Resident of Village-Belaghat, P.O.-Tulshibari, P.S. and District-Madhepura.
3. Dharmendra Sardar, Son of Late Kartik Sardar, Resident of Village-Gurutara, P.O.-Lalpur, P.S.-Singheshwar, District-Madhepura.
4. Shiv Shankar Kumar, Son of Harihar Narayan Sah, Resident of Village and P.O.-Laxmipur Muhalla, P.S. and District-Madhepura.
5. Manoj Kumar Rajak, Son of Kishan Rajak, Resident of Village-Jajhat Sabaila, P.O. and P.S.-Singheshwar, District-Madhepura.
6. Vikas Kumar, Son of Pramod Prasad Gupta, Resident behind Shiv Mandir, Purani Bazar, Ward No. 06, Nagar Parishad, P.S. and District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The State Project Director, Bihar Education Project Council, Bihar, Patna.
4. The Divisional Commissioner, Koshi Division, Tirhut.
5. The Administrative Officer, Bihar Education Project Council, Patna.
6. The District Education Officer, Madhepura.
7. The District Programme Officer (Establishment), Madhepura.
8. The District Programme Officer, Primary Education and Sarv Shiksha Abhiyan, Madhepura.
9. The Senior Deputy Collector, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ritika Rani Mr. Dinu Kumar Mr. Vardaan Mangalam, Adv
For the Respondent/s	:	Mr.Madhaw Prasad Yadav (Gp23) Mrs. Meera Singh, AC to GP-23
For BEPC	:	Mr. Girijish Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

10 09-02-2024

Heard learned counsel for the petitioner and learned



counsel for the State and Counsel for the Bihar Education Project Council.

2. Counsel for the petitioner submits that the petitioner has moved earlier before this court vide Annexure-4 i.e. Order dated 24.08.2017 in C.W.J.C. No. 14522 of 2016, this writ petition was disposed off with certain observation which is as follows:

4. Having regard to the aforesaid, as the petitioners do not stand disqualified from being appointed in future and further that their appointment in terms of the final list published on 27.08.2015 cannot be said to be illegal, the authorities could have appointed the petitioner validly without there being any bar in law. However, at the same time, since it is for the employer to decide as to whether he wants to fill up the posts, the State Government taking a categorical stand that, as of now, their financial condition does not permit such engagement, the writ petition stands disposed off with the observation that in future, if the Government proposes to make recruitment/selection/appointment on the posts in question, the petitioners shall also be given opportunity to take part in the said selection process and the authorities shall take into consideration the fact that in the selection of the year 2015, they were successful.

5. Let the petitioners serve a copy of this order on respondent no. 6 so that he is aware of the present order. He shall also that the petitioners are given their due in future when recruitment to the said posts starts once again.

3. In the light of the said observation, representation has been filed by the petitioner Vide Annexure-5 but when no action was taken then this present writ petition has been filed.

4. In the present writ petition, the Annexure- P/8 i.e. Letter No. 6972 dated 02.11.2023 has been filed by the Bihar



Education Project Council. Counsel submits that from the said letter which is of November, 2023 it transpires that there are still 277 post vacant and the respondent Bihar Education Project Council are appointing the persons against the said post through outsourcing for one year.

5. Counsel further submits that their case may also directed to be considered as in this regard they have filed representation i.e. Annexure-P/10 but on the said representation no decision has been taken by the authority till date.

6. Counsel for Bihar Education Project on the other hand submits that Bihar Education Project Council used to run from the fund provided from the State Government as well as the Central Government for a limited period. It is not a permanent establishment and it may be stopped any time and due to this reason work used to be taken project wise only for one year with the help of agency selected for providing manpower via outsourcing.

7. Counsel further submits that the petitioners are at liberty to approach the agency then only the case of petitioner may be taken into consideration after the scrutiny from the side of the agency.

8. In the light of the submissions made and



particularly in the light of observations made by this Court on earlier occasion in which liberty has already been granted and this liberty still continues whenever the authority shall proceed in the selection process, shall be taken into consideration to the candidate as like of petitioner but in the meantime, petitioners have filed the representation i.e. Annexure P/10 and Annexure P/11. This court directs the authority to pass an order considering a probable situation, if possible, may be through agency only, treating the agency as immediate employer for the petitioner subject to the consent of the selected agency and these processes shall be completed within 3 months from the date of production of this order.

9. Accordingly, this writ petition is hereby disposed of.

(Dr. Anshuman, J)

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