

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6391 of 2021

Sanjay Kumar Son of Sri Gopal Jee Singh, resident of Village Chandokaiyon,
P.S. - Sikthi, District Kaimur at Bhabhua, presently posted as Graduate
Trained Prakhand Teacher, U.M.S. Dumri Block, Bhabhua, District - Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer, District Kaimur at Bhabhua.
4. The District Programme Officer (Establishment), D.E.O. Officer, District Kaimur at Bhabhua.
5. The Prakhand Shikshak Niyojan Unit, Bhabhua through the Member Secretary Prakhand Shikshak Niyojan Unit, Bhabhua-cum-Block Development Officer, Block Bhabhua, District - Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Advocate Mr. Kundan Kumar Oha, Advocate Mr. Navneet Prabhaker, Advocate Mr. Praveen Kumar, Advocate
For the Respondent/s	:	Mr. Amit Bhushan, AC to G.P.-17

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

15 09-12-2024 1. Indisputably, the petitioner was appointed as Shiksha Mitra, under Shiksha Mitra Niyojan Disha Nirदेश in a Gram Panchayat in the district of Kaimur, Bhabhua. Subsequently, the said Disha Nirदेश was amended and repealed by a new rule under the name and style of Bihar Prarambhik Shikshak (Niyojan awam Sewa Sharten) Niyamawali, 2006. As per rule 20(3) of the said 2006 Rules, Shiksha Mitra was deemed to be Panchayat Teacher. Under the



said Niyamawali, there were two categories of Teacher, namely Panchayat Teacher and Prakhand Teacher, both having basic grade.

2. Subsequently, 2006 Rules was repealed and replaced by Bihar Prarambhik Shikshak (Niyojan awam Sewa Sharten) Niyamawali, 2012. Under the said Rules, there were three categories of Teachers; Panchayat Shikshak, having basic grade. They had the responsibility to teach the students from Class-I to Class-V; Prakhand Shikshak having responsibility to teach students from Class-VI to Class-VIII; and Pradhanadhyapak (Headmaster). Prakhand Shikshak and Pradhanadhyapak were having different grades.

3. It would not be out of place to mention here that the petitioner was appointed as Shiksha Mitra on 31st of May, 2005. He joined his service on 1st of June, 2005. Niyojan Niyamawali came into force w.e.f. 1st of July, 2006. The petitioner became Panchayat Teacher from 01.07.2006. It is also not disputed that the petitioner obtained Graduate degree having Teacher's Training from the very beginning.

4. Rule 15 (cha) of 2012 Rules prescribes that 50 per cent post of Graduate Teacher shall be filled up from the eligible basic grade Teachers and 50 per cent shall be filled up by direct



recruitment. After framing 2012 Niyamawali, Teachers are being recruited by way of direct recruitment on the post of Graduate Grade Teachers since 2013. However, the vacancies with regard to 50 percent quota of promotion were never filled up. The petitioner initially filed an appeal before the District Appellate Authority. The District Appellate Authority directed the concerned department to initiate the process of recruitment at the earliest. However, in order to stall the said direction, the State went in appeal.

5. The said appeal being Appeal No. 252 of 2019 was disposed of on 19th of March, 2021, on the basis of the submission made on behalf of the learned counsel for the appellant. The relevant portion of the order in paragraph nos. 4 to 7 is reproduced below:-

“4. Dr. Chandra states that the appellants, after having cancelled the promotions given to the private respondents, are taking steps for grant thereof as per the order passed by the District Authority. In view of the subsequent events taking place, as noticed above, he would submit that the present appeal has become infructuous and he would not press the same.

5. Learned counsel for the contesting respondents, on the other hand, made



submissions to challenge the correctness of those orders dated 12.01.2021 and 16.01.2021.

6. In the considered view of this Court, those orders may provide a fresh cause of action to the private respondents to seek appropriate remedy invoking the relevant jurisdiction of the learned District Authority.

7. As the appellants have sought withdrawal of the appeal as having become infructuous, the present appeal stands withdrawn as not pressed.”

6. Thus, it was the submission on behalf of the State on 19th of March, 2021 that the State-Respondents were going to give effect of the order passed by the District Authority. Subsequently, almost 4 years of have lapsed, no steps have been taken on behalf of the respondents in respect of the promotion made by the petitioner and other similarly situated teachers.

7. The Advocate on behalf of the State-Respondents refers to paragraph no. 7 of the supplementary counter affidavit filed on behalf of the Respondent No. 2 wherein it is stated that in view of the judgement passed in ***SLP No. 30621 of 2011 (Jarnail Singh & Ors. v. Lachhmi Narain Gupta & Ors.)*** reported in ***(2018) 10 SCC 396*** and other analogous cases and order dated 01.04.2019, passed by the passed in ***C.W.J.C. No. 14907 of 2018 (Yogeshwar Pandey & Ors. v. The State of***



Bihar & Ors.) and other analogous cases, the General Administration Department issued a Notification No. 5066, dated 11.04.2019 to the effect that all departments including the regional offices, shall postpone their meeting of the departmental promotion committee as well as promotions given to the posts of State Government or services until further orders.

8. In the same paragraph, it is recorded that the said embargo was relaxed vide a subsequent Memo No. 19300, dated 13th October, 2023. In view of relaxation of previous order dated 11th of April, 2019, the State Government cannot have any objection against granting promotion to the petitioner and similarly situated teachers.

9. It is submitted by the learned Advocate for the petitioner that some other similarly placed teachers were promoted in 50 per cent quota in another Block, namely, Bhagwanpur.

10. Learned Advocate on behalf of the respondents, on the other hand, states that such action was taken wrongly by the Bhagwanpur Block.

11. Be that as it may, at this juncture, there is no embargo in granting 50 per cent promotion as per 2012 Rules to the Panchayat Teachers having requisite qualifications.



12. It is unfortunate to note that service benefit which enjoins a reasonable expectation of promotion after performing considerable period of time in basic grade is denied by the respondents without any reason and in violation of Rule 15 (Ch) of 2012 Rules.

13. The learned counsel for the State submits that it will take considerable time to prepare the seniority list and the process of determination of reservation.

14. On this objection, the Court can only say that for departmental wrong and inaction, a private party cannot suffer. This is a case where the provisions of Articles 14, 16 and 21 of the Constitution of India have been grossly violated.

15. In view of such circumstances, the instant writ petition is disposed of directing the respondents to prepare the gradation list along with the prevailing reservation policy of Panchayat Teachers of the concerned block within 1 month from the date of this order. Thereafter, on the basis of the seniority of vacant posts in the 50 per cent promotional quota will be filled up giving effect to such promotion from the date on which the petitioner and others similarly placed candidates are entitled.

16. It is made clear that the entire process shall obviously be concluded within 90 days from the date of



communication of this order.

17. With the aforesaid direction, the instant petition stands disposed of, on contest, however, without costs.

(Bibek Chaudhuri, J)

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