

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13398 of 2023**

1. Ravi Prakash Son of Chandeshwar Prasad Sinha, Resident of Village - Ward No. 15, Andarkila, P.S. Hajipur Town, District- Vaishali.
2. Manjeet Kumar, Son of Late Chandrashekhar Singh, Resident of Village - Asoi Ragho, P.S.- Bhagwanpur, District- Vaishali.
3. Alok Kumar, Son of Shatrughna Singh, Resident of Village - Bikrampur, P.S.- Marhowrah, District - Saran.
4. Jyoti Kumar, Son of Late Chandeshwar Sharma, Resident of Village - Vikram Kaituka, P.S.- Maker, District - Saran.
5. Amrita Singh, Daughter of Aniruddh Kumar Singh, Resident of Village - Darshan Nagar, Chapra, P.S. Chapra Town, District - Saran.
6. Sunil Kumar Sharma, Son of Ram Chandra Sharma, Resident of Village - Ward No. 4, Reora, P.S.- Khanpur, District- Samastipur.
7. Juhi Kumar @ Juhee Kumari, Wife of Vishal Koul, Resident of Village - Gopalganj Ward No. 12, Maunia Chowk, P.S- Gopalganj Town, District- Gopalganj.
8. Ravi Kumar Tiwari, Son of Ramesh Tiwari, Resident of Village - Jalalpur, P.S. Jalalpur, District- Saran.
9. Raviranjana Kumar, Son of Anil Thakur, Resident of Village - Lawapur Narayan, P.S.- Mahnar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Department of Education, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Govt. of Bihar, Patna.
4. The District Magistrate, Saran at Chapra.
5. The District Education Officer, Saran at Chapra.
6. The Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Saran at Chapra.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Shashank Chandra  
For the Respondent/s : Mr. Subhash Chandra Mishra (Sc16)

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL JUDGMENT**

**Date : 06-03-2024**

Heard learned counsels for the parties.



2. The petitioners have filed the present writ application for the following relief(s):

*I) For holding and declaring that the Provision contained in Rule 19 (ii) of the Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceedings and Service Conditions) Rules, 2023 will not be applied in the selection process of the petitioners, as the Selection Process of 6th Phase of appointment of Secondary and Senior Secondary Teachers was initiated in the Year 2019 and the petitioners having participated in the same have a right for consideration of their appointment, which was at fag end and only a formality of issuing appointment letter to the petitioners were required to be carried. Further, by the said Rule, the Legislature has even impinged upon the settled right of the petitioners for being consider for appointment.*

*II) For commanding the Respondents especially the Respondent No. 6 to forthwith issue appointment letter to the petitioners and also to accept their joining, in view of the fact that the petitioners are selected candidates having highest merit rank in the merit cum select list, for appointment on the post of Secondary Teachers in pursuance of the initiation of 6th phase of appointment of Secondary and Senior Secondary Niyojit Teachers, initiated vide notification contained in Memo No. 1142 dated 01.07.2019*



*and also to act strictly in accordance with law.*

*III) For issuance of any other appropriate order/orders and/or direction/directions for which the petitioners shall be found entitled under the facts and circumstances of the case.*

3. Learned counsel for the petitioners submits that the petitioners are trained teachers having qualified B.Ed. Examination and have also cleared the Secondary Teachers Eligibility Test, 2011.

4. It is further submitted that the Department of Education vide its notification contained in Memo No. 1142 dated 01.07.2019, issued by the under Secretary, initiated the process for 6<sup>th</sup> phase appointment of Secondary and Senior Secondary Teachers on the conditions enumerated in the notification dated 01.07.2019. The petitioners are B.Ed. And STET qualified were eligible to participate in the selection process, as such they also applied against the aforesaid notifications, which was subsequently also notified by various Niyojit Units, including the Zila Parishads, Saran at Chapra.

5. It is further submitted that the Director Secondary Education by his Letter dated 27.12.2019 directed all the Niyojan Units to allow only those candidates to participate in the selection process, who had passed the B.Ed. Examination by the year 2016. Since the petitioners have passed their B.Ed.



Examination in the Year 2018 and some of them in the year 2019, as such, they were ousted from the selection process.

6. It is further submitted that the petitioners along with other affected candidates challenged the said decision of the Director by filing C.W.J.C. No. 1987 of 2020 including other analogous writ applications. Subsequently, the Education Department vide letter dated 13.01.2020 as well as letter dated 31.01.2020 permitted the candidates, who had pursued and completed the B.Ed. Course by the year 2018. In the meantime, a PIL being CWJC No. 4975 of 2020 (National Federation for Blind Vs. the State of Bihar and Ors.) came to be filed before this Court for a direction upon the authorities to properly implement the reservation policy of differently abled in the present selection process. This Court vide order dated 24.07.2020 was pleased to stay the recruitment process and thereafter, vide order dated 03.06.2021, the said writ application was disposed of giving liberty to the Department to continue with the selection process by following the reservation policy of differently abled. After disposal of the aforesaid writ application, the Education Department again issued Advertisement dated 06.06.2021 inviting applications from the differently abled candidates in the present selection process. The



seats for differently able category varied, on account of which fresh opportunity was granted to the candidates belonging to differently abled eye category.

7. In the meantime, the schedule for Panchayati Raj Elections was notified in the State of Bihar, as such the Department vide Notification No. 1701 dated 22.10.2021 deferred the schedule of 6th Phase appointment of Secondary and Senior Secondary Teachers, till the conclusion of the election. After conclusion of the Panchayati Raj Elections, the Director Secondary Education, issued fresh schedule for appointment of 6th Phase Secondary and Senior Secondary Teachers, vide Notification No. PR10873 as published in the Newspapers. Before the selection process, as prescribed in the aforesaid schedule, could have been completed, CWJC No. 1987 of 2020 along with other analogous writ applications came to be disposed by Order dated 09.10.2022 by issuing certain directions, as mentioned in the said order. In order to comply the directions, the Department again stayed the selection process until further orders vide Notification dated 15.02.2022.

8. Subsequently, the Director, Secondary Education vide Order contained in Memo No. 801 dated 21.04.2022 allowed all the candidates, who pursued their B.Ed. in the Session 2017-19



and their result have been declared by 26.09.2019. After issuance of the aforesaid Order dated 15.02.2022, the Director Secondary Education again vide notification contained in Memo No. 817 dated 25.04.2022 issued a fresh schedule for the selection process in question. It is further submitted that again fresh applications were invited from the eligible candidates and the date for issuance of appointment letter was prescribed as 28.07.2022.

9. Although by the aforesaid Memo, a definite schedule was prescribed for all the Niyojan units to complete the selection process, but however many Niyojan units failed to complete the same, including the Zila Parishad, Saran, as such considering the said fact, the Director Secondary Education again issued a fresh schedule to the Niyojan units for completing the selection process. The last date for issuing appointment letters was again prescribed as 26.08.2022 which is clear from the memo dated 28.07.2022. Subsequently, the Director Secondary Education vide memo no 1838 dated 15.09.2022 again declared a fresh schedule after considering the fact the selection process is still incomplete at various Niyojan unit. In the said memo dated 15.09.2022, a fresh schedule was prescribed specially for Zila Parishad, Saran. It is submitted that



the Zila Parishad, Saran till the issuance of the memo dated 15.09.2022 did not take any step to complete the selection process despite the fact that time to time the Department of Education issued fresh schedule for completing the selection process, but on account of the inaction of the Authorities of Zila Parishad, Saran, the process was not completed. It is further submitted that after issuance of the memo dated 15.09.2022, the authorities Zila Parishad, Saran, rose from their slumber and issued a letter no. 252 dated 19.09.2022, prescribing the date of counselling as 26.09.2022, for the candidates who have submitted their applications in the selection process. On 21.09.2022 itself the Zila Parishad Saran issued the final subject wise merit list of the candidates, who participated in the selection process. The names of the petitioners got mentioned in the said merit list under their respective subjects. Subsequently, the petitioners along with other candidates appeared in the counselling which was scheduled on 26.09.2022. All the petitioners having secured the merit rank in their respective subjects were selected for appointment and accordingly, their original certificate were taken by the authorities of Zila Parishad, Saran for verification as well as for further action, even till date, the certificates of the petitioners are still with the



Zila parishad, Saran. Since the petitioners were selected in the counselling on 26.09.2022 itself as such the appointment letter would have been issued to them on 28.09.2022. However, in the meantime the Director, Secondary Education issued an order contained in memo no. 1877 dated 26.09.2022 by which earlier memo dated 13.01.2020 as well as memo dated 31.01.20220 by which the candidates who pursued their B.Ed. in the session 2016-18 were permitted to participate were stayed in pursuance of the direction issued in LPA No. 269 of 2022. On account of the issuance of aforesaid order dated 26.09.2022, the appointment letters were not issued to the petitioners, as the petitioners have pursued their B.Ed. in the session 2016-18 and 2017-19. However, apart from the petitioners, appointment letters issued to the other candidates who had completed their B.Ed. till 2017.

10. Since the appointment of the petitioners were kept in abeyance, for the reason aforesaid, however subsequently the selection process was again initiated by the Director Secondary Education vide order contained in memo no. 677 dated 24.03.2023. In view of the liberty granted by this Court in LPA No. 269 of 2022. From perusal of the aforesaid Memo dated 24.03.2023, it would manifest that the earlier Order dated



26.09.2022 was set aside and all the Niyojan units were directed to issue appointments letters to the selected candidates by 31.03.2023. Despite the specific direction of the Director Secondary Education to issue appointments letters to the selected candidates by 31.03.2023, the same was not issued to the petitioners.

11. It is further submitted that while the petitioners were awaiting issuance of appointment letter, the Government notified Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceedings and Service Conditions) Rules 2023, vide Gazette Notification dated 10.04.2023. The said rules have been framed under the power conferred under the proviso to Article 309 of the Constitution, by the Governor of Bihar, in order to regulate the appointment as well as service conditions of the Govt. Teachers in the State of Bihar. Rule 19 (ii) of the aforesaid rule, envisages that no new appointment can be made after the date of enactment of these rules, under the Rules specified in Rule 19 (i). It is further submitted that the said Rule restricts the Government from making any fresh appointment under the old recruitment Rules.

12. It is further submitted that since the petitioners were selected during the counselling and their documents were even



submitted, as such the same gives the petitioners a right to be considered for appointment, but on account of enforcement of the aforesaid clause, in the 2023 Rules, the appointment letters were not issued in favour of the petitioners. They represented before several authorities regarding the same, but their appointment letters have not issued yet.

13. Learned counsel for the respondent no.6 has filed counter affidavit stating therein that the appointment letter could not be issued as per prescribed schedule due to shortage of time and due to Legislative Council's Election under Saran Commissionerate. The respondent no.6 vide letter no. 317 dated 23.06.2023 sought guidelines from the Director Secondary Education, regarding the steps which can be taken for conclusion of the selection process, but the said guidelines have not been issued by the Department till date, but as soon as the guideline will be received from the respondent no.3, the process of issuance of appointment letter to the selected candidates will be completed.

14. Considering the aforesaid discussions, this writ application is disposed of with a direction to the Director, Secondary Education, Government of Bihar, Patna (respondent no.3) to give appropriate direction to the Deputy Development



Commissioner cum Chief Executive Officer, Zila Parishad, Saran at Chapra (respondent no.6) to take steps in accordance with law and issue the appointment letters to the petitioners within a period of four weeks from the date of receipt/production of a copy of this order.

15. It is made clear that the the Director, Secondary Education, Government of Bihar, Patna (respondent no.3) as well as Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Saran at Chapra (respondent no.6) shall be responsible for non-compliance of this order within the stipulated time.

**(Anjani Kumar Sharan, J)**

divyanshi/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 22.03.2024 |
| Transmission Date | NA         |

