

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.907 of 2024**  
**In**  
**Civil Writ Jurisdiction Case No.1668 of 2020**

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1. Dr. Rajiv Ranjan Son of Jagdish Prasad Singh, Resident of Village- Kalai,  
P.S. Harpur,Block- Tetiyabambar, District- Munger, Bihar, Pin- 813221.
2. Sunil kumar Son of late Brajesh Prasad Singh, Resident of Dinkar Nagar,  
Mohanpur, Nalanda P.S. Nalanda, District- Nalanda, Pin- 803111.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource  
Development Department, Govt. of Bihar.
2. Principal Secretary, Department of Education, Bihar,Patna.
3. Director, Secondary Education, Department of Education, Bihar,Patna.
4. Deputy Director, Secondary Education, Department of Education, Bihar,  
Patna.

... .. Respondent/s

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**Appearance :**

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| For the Appellant/s  | : | Mr. Mrigank Mauli, Sr. Advocate<br>Mr.Abhishek Anand, Advocate<br>Ms. Madhuri Kumari, Advocate |
| For the Respondent/s | : | Mr. Sarvesh Kumar Singh, AAG-13                                                                |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 21-10-2024**



The writ petitioners are the appellants, aggrieved with the rejection of their contentions and consequential dismissal of the writ petition. The writ petitioners were appointed on a contractual basis as Principal and Vice Principal respectively in Simultalla Awasiya Vidyalaya, Jamui, Bihar which is managed by the Simultalla Education Society, Simultalla, Jamui. The petitioners claim that they are entitled to be continued till they attain the age of retirement.

2. The writ petitioners challenged the notification issued which sought to make regular appointments to the School, replacing the contractual appointees. It has to be mentioned that initially the proposal was to make further contractual appointments, which was interdicted by this Court. Later, the Society brought out an advertisement calling for regular appointments; which was challenged in the writ petition.

3. Learned Single Judge found that the engagement of the writ petitioners was purely on contract basis; for a fixed emolument and for a period of three years only. The present recruitment is as per the change in policy brought out by the Society which is also to make regular appointments. The policy decision was also to make the appointments through the Bihar Public Service Commission which cannot be faulted under



Article 226 of the Constitution of India. The persons who are continued had been provided with age relaxation for the purpose of applying under the new advertisement also. The learned Single Judge upheld the notification dated 31.08.2019.

4. Learned Senior Counsel appearing for the appellants pointed out from the advertisement produced as Annexure-P/12 in the writ petition and its English translation, that the minimum age requirement for the post of Principal and Vice Principal was 50 and 45 years respectively and the advertisement itself indicated the retirement age as 60 years. Though the appointment was for a period of three years, as provided in the notification itself it was extended continuously. Reliance is also placed on Simultalla Education Society Teaching and Non Teaching Staffs Contract Service Condition and Discipline Rules, 2021 produced as Annexure-A along with the supplementary counter affidavit filed by the 3<sup>rd</sup> respondent. It is asserted that even as per the Rules the petitioners are entitled to continuation.

5. Admittedly the appointment was for a period of three years and was contractual in nature. The further extension was also permitted by the notification under which contractual appointments were made; but that is a decision to be arrived at



by the Society and it cannot be said that merely because the retirement age was shown as 60 years, the contractual appointees have a right to be continued till that age. The provision indicating a retirement age in the advertisement only makes it clear that there can be no extension beyond the retirement age provided in the advertisement.

6. The next contention is with respect to Rule-5 of Simultalla Education Society Teaching and Non Teaching Staffs Contract Service Condition and Discipline Rules, 2021 which reads as under:-

**“Mortal Post:-** Posts of Principal, Vice-Principal, Teaching and Non-Teaching Staffs working on contract will be mortal. On being vacant on account of retirement and other reasons, these posts shall, automatically extinct.”

7. It has to be emphasized that retirement is not the only consequence which makes a contractual post extinct, since the Rule itself provides other reasons. A termination or appointment in a regular vacancy which leads to the termination of the contractual appointee will also be reckoned as a reason making the contractual post extinct.

8. We also reiterate that the present advertisement is to the post available which appointments are sanctioned and is to be made regularly in service.



9. On all the above reasons, we find absolutely no reason to entertain the appeal and reject it *in limine*.

10. Interlocutory application(s), if any, shall stand disposed of.

**(K. Vinod Chandran, CJ)**

**(Partha Sarthy, J)**

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