

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1151 of 2024

1. Dhirendra Kumar, son of Sambhu Prasad Yadav, Resident of Govindpur, P.O.-Chandan, P.S.-Chandan, District - Banka, Pin- 814131.
2. Gunjan Kumar, son of Bhushan Sharma, Resident of Sakulachak, P.O.- Samai P.S.- Muffasil, District- Nawada, Pin- 805104.
3. Rathi Kashyap, son of Pankaj Kumar Jha, Resident of Bhatkundi, P.O.- Bhatkundi, P.S.- Banka, District- Banka Pin- 813109.
4. Abhishek Kumar, son of Surendra Kumar Yadav, Resident of Sultanpur P.O.- Andar P.S.- Andar, District- Siwan Pin- 841231.
5. Ramchandra Das, son of Siyaram Das, Resident of Kalyanpur Basti Purav, P.O.- Mohiuddin Nagar (R.S), P.S- Mohiuddin Nagar, District- Samastipur Pin- 848502.
6. Aman Kumar gupta, son of Raju Kumar Gupta, Resident of Gopalpur, P.O.- Gopalpur, P.S.- Nayagaon District- Saran Pin-841217.
7. Jay Prakash Kumar son of Ashok Yadav, Resident of Deohara, P.O.- Deohara, P.S.-Goh, District- Aurangabad, Pin- 824114.
8. Rajeev Ranjan Kumar, son of Ravindra Yadav, Resident of Dihuri, P.O.- Dihuri, P.S.- Goh District- Aurangabad Pin- 824129.
9. Vimal Kumar, son of Krishnadev Prasad Singh, Resident of Inai P.O.- Inai, P.S.- Baheri, District- Darbhanga Pin- 847105.
10. Ravi Kumar, son of Balram Choudhary, Resident of NanhkarJayrampur, P.O.- DharampurRatti, P.S.- Bihpur, District- Bhagalpur, Pin- 853201.
11. Diksha, Daughter of Sanjeev Krishna, Resident of Koyladewa, P.O.- Koyladewa, P.S- Phulwariya, District- Gopalganj, Pin- 841438.
12. Divya Kumari, Daughter of Vijay Kumar Thakur, Resident of Bhagwat Parsa, P.O.- Bhagwat Parsa, P.S.- Phulwariya, District- Gopalganj, Pin- 841425.
13. Saurabh Raj, son of Satendra Prasad Singh, resident of Damribigha P.O.- Karpi P.S- Karpi District- Arwal Pin- 804419.
14. Vishal Kumar, son of Munilal Ray, Resident of Kazichak P.O- Katkaira P.S- Koilwar District- Bhojpur Pin- 802160.
15. Rahul Kumar Pandey, son of Kusheshwar Pandey, Resident of Gangawaliya P.O- Basahi P.S- Kudra District- Kaimur (Bhabhua) Pin- 821108.
16. Sudhanshu Kumar, son of Vijaymal Kumar Rai, Resident of Chitragupta Colony Bikramganj P.O- Bikramganj P.S- Bikramganj District- Rohtas Pin- 802212.
17. Ravi Kumar, son of Umesh Prasad, resident of Banwara P.O- Chiksaura P.S- Chiksaura District- Nalanda Pin- 801302.
18. Ravi Kumar, son of Ramuday Sharma, Resident of Rajkharsha P.O- Koilbhupat P.S- Mehendiya District- Arwal Pin- 804430.
19. Akshay Kumar, son of Sonelal Paswan, Resident of Rusulpur Vinu Nagar P.O- Bhikhanpur P.S- Ahiyapur District- Muzaffarpur Pin- 842004.



20. Sadhana Yadav, Daughter of Samarath Yadav, Resident of Vishwapalpur, P.O- Baraipar, P.S- Tezibazar, District- Jaunpur Pin- 222144.
21. Shreekant Kumar, son of Balkrishn Sah, Resident of Berai P.O- Berai P.S- Hathauri District- Muzaffarpur Pin- 843129.
22. Manish Kumar, son of Sadanand Yadav, resident of Bishanpur P.O- Basaha P.S- Pipra District- Supaul Pin- 852131.
23. Shobhit Suman, son of Santosh Kumar Mandal, Resident of Sameli P.O- Sameli P.S- Kursela District- Katihar Pin- 854101.
24. Yash Manan, son of Anirudh Narayan Resident of Mahavir Mandir Lane Mahendru P.O- Mahendru P.S- Sultanganj District- Patna Pin- 800006.
25. Vishal Bharti, son of Dinesh Prasad Mandal, Resident of Tikapatti P.O- Tikapatti P.S- Tikapatti District- Purnea Pin- 854101.
26. Sonam Kumari, wife of Mannu Kumar, Resident of Katari P.O- Katari P.S- Korma District- Sheikhpura Pin- 811102.
27. Shahid Khan, son of Shamshad Khan, Resident of Karari P.O- Karari P.S- Durgawati District- Kaimur Pin- 821105.
28. Mahima Bharti, Daughter of Vidyanshu Kumar, Resident of Paunihasanpur P.O- Paunihasanpur P.S- Vaishali District- Vaishali Pin- 844123.
29. Sachit Kumar, son of Lalbahadur Yadav, Resident of Rariyaha P.O- Ghailarh P.S- Ghailarh District- Madhepura Pin- 852124.
30. Anurag Ranjan, son of Randhir Kumar Tiwari, Resident of Paunihasanpur P.O- Paunihasanpur P.S- Vaishali District- Vaishali Pin-844123.
31. Moni Kumari, Daughter of Sri Satyendra Sah, Resident of Parmanandpur Lal P.O- Chhitrauli P.S- Mahua District- Vaishali pin- 844126.
32. Md. Shamshad Alam, son of Md. Sajjad Alam, Resident of Marar South, P.O- Marar South, P.S- Murkahi District- Khagaria Pin- 851205.
33. Ravijeet Kumar Jha, son of Umesh Chandra Jha, Resident of Haripur Baxi Tol P.O- Haripur Baxi Tol P.S- Kaluahi District- Madhubani Pin- 847229.
34. Anjani Kumari, Daughter of Subodh Kumar, Resident of Gaway P.O- Gaway P.S- Sheikhpura District- Sheikhpura Pin- 811105.
35. Dhiraj Kumar, son of Ramanuj Prasad Yadav, Resident of Pachoi P.O- Dema Fatehpur P.S- Khizersarai District- Gaya Pin- 824233.
36. Abhinav Singh, Son of Krishna Mohan Singh, resident of Sultanpur East P.O- Sultanpur East P.S- Mohiuddin Nagar District- Samastipur Pin- 848501.
37. Anupam Vikash, son of Jay Prakash Ram, Resident of Madhopur P.O- Madhopur P.S- Chandramandih District- Jamui Pin- 811303.
38. Ajay Patel, son of Aparbal, Resident of OdharaSalempur, P.O- Nainijor, P.S- Raunapar District- Azamgarh Pin- 276122.
39. Golu Kumar Pandey, son of Damodar Pandey, Resident of Hemdapur P.O- Parasia, P.S- Brhampur, District- Buxar Pin- 802111.
40. Ashish Tripathi, son of Ramsagar Tripathi, Resident of ChandupurAmrayan, P.O- Sarai Akil, P.S- Sarai Akil, District- Kaushambi Pin- 212216.
41. Vimlesh Kumar, son of Guna Singh Resident of Lodipur, P.O- Saidabad, P.S-



Pali (Kako) District- Jehanabad Pin- 804417.

42. Pramjeet Kumar, son of Hareram Mandal, Resident of Kothra P.O- Kothra, P.S- Hayaghat, District- Darbhanga Pin- 847105.
43. Rekha Kumari, Daughter of Subhash Prasad Singh, Resident of Shankarpur, P.O- Shankarpur, P.S- Roshra, District- Samastipur Pin- 848117.
44. Sarswati Kumari, Daughter of Shravan Kumar Singh, Resident of Rajwara P.O- Inai, P.S- Baheri, District- Darbhanga Pin- 847105.
45. Ayush Bhushan, son of Anil Kumar, Resident of Kurtha, P.O- Kurtha, P.S- Kurtha, District- Arwal, Pin- 804421.
46. Om Prakash Singh, son of Hridya Narayan Singh, Resident of Devasthapur, P.O- Atrauna, P.S- Itarhi, District- Buxar Pin- 802123.
47. Gaurav Raj, son of Sudhist Narayan Thakur, Resident of Nawalpur, P.O- Mushari, P.S- Kathiya, District- Muzaffarpur, Pin- 843124.
48. Sunny Kumar, son of Arvind Kumar Chaudhary, Resident of Chhajan Hari Ray Tola, P.O- Chhajan Hari Shankar, P.S- Kurhani, District- Muzaffarpur, Pin- 844127.
49. Ashish Raj, son of Dilip Sah, Resident of Kuari, P.O- Kuari, P.S- Kursakanta, District- Araria, Pin- 854332.
50. Ragni Verma Daughter of Anil Kumar Verma, Resident of Fakharapur, P.O- Fakharapur, P.S- Arwal, District- Arwal, Pin-804401.
51. Suprita Kumari, Daughter of Ram Chandra Singh, Resident of Rampur, P.O- Inai, P.S- Baheri, District- Darbhanga, Pin- 847105.
52. Md. Shahanshah Ansari, Son of Md. Nishar Ansari, Resident of Vill. - Pratappur, P.O.-Dhandh, P.S. and District-Jamui, State-Bihar, Pin Code- 811307
53. Dheeraj Kumar Pandey, Son of Himanchal Pandey, Resident of -Vill. Bakrahua, P.O.- Deora Bazar, P.S.- Jogiya, District- Siddharth Nagar, State- Uttar Pradesh, Pin Code- 272207
54. Ashutosh Kumar Mishra, Son of -Rajesh Kumar Mishra, Resident of Village- Jafraabad, Post office- Eklamisraulia, Police Station/Sub Division. - Rudrapur, District- Deoria, State- Uttar Pradesh, Pin Code- 274204
55. Suman Yadav, Daughter of Dayaram yadav, Resident of - Vill. -Naharpur vijainpur sajhara, P.O.-Rampur bhagan, P.S. -Tarun, Sub-division -Bikapur, District -Faizabad (Ayodhya), State- Uttar Pradesh, Pincode -224203
56. Bhavesh Kumar, Son of Ram Janki Sah, Resident of Khamhar, Begusarai P.O.-Rajaura, P.S.- Muffasil thana, District- Begusarai, State-Bihar, Pin Code-851131
57. Prashant Shrivastava, Son of Pramod Shrivastava, Resident of - Ward No. 2, Sikandarpur Bhandar, P.O. and P.S.- Bhandar, District- Datia, State- Madhya Pradesh, Pin Code- 475335
58. Md. Tahsin, Son of Md.Reyazuddin, Resident of Vill. and Post- Katesar, P.S Bihta, District-Patna, State-Bihar, Pin Code- 801103.
59. Naveen Kumar Singh, Son of Satyendra Kumar Singh, Resident of Vill.- Barahara, Post- Semraon, Block and P.S.- Charpokhari, District- Bhojpur,



State- Bihar, Pin Code- 802203.

60. Vivek Kumar Son of Amod Thakur, Resident of Vill.- Birar, P.O.- Bela Shantikutir, P.S.- Nanpur, District- Sitamarhi, State- Bihar, Pin Code- 843333.
61. Jitendra Kumar Deepak, Son of Suresh Yadav, Resident of Vill. - Kamat Tola, P.O.- Pakrail, P.S.-Maheshkhunt, S.D.- Gogari, District- Khagaria, State- Bihar, Pin Code- 851213.
62. Md Mahtab Ansari, Son of Md. Zafar Ansari, Resident of Araria Baigachhi Momin Tola, P.O.- Baigachhi, P.S.- Baigachhi Araria, District- Araria, State-Bihar, Pin code- 854311.
63. Ankit Kumar Yadav, Son of Sriram Yadav, Resident of Rehati (Banpurvan), P.O.-Trilochan Mahadev, P.S.- Jalalpur, District - Jaunpur, State - Uttar Pradesh, Pin Code -222136.
64. Antima Yadav, Daughter of Ram Prit Yadav, Resident of Vill.- Bistara, P.O.- TaharKishundevpur, P.S.- Kaptanganj, District- Azamgarh, State- Uttar Pradesh, Pin Code- 276141.
65. Gautam Kumar, Son of Kuwar Pal Singh, Resident of Vill.- Sulkhanpur, Post- Chhachha, S.D.- Bhongaon, District- Mainpuri, State- Uttar Pradesh, Pin Code- 205262.
66. Pavan Kumar, Son of Surajram, Resident of Vill./City- Harpalpur, Ward no.- 11, Galan Road, P.O.-Sarsed, P.S.-Harpalpur, S.D.- Nowgong, District- Chhatarpur, State- Madhya Pradesh, Pin Code- 471111.
67. Abhishek Singh, Son of Sri Shankar Vaksh Singh, Resident of 73, Village- Karaundi, P.O.-Bambhaur, P.S.-Rampur Kalan, District-Sitapur, State-Uttar Pradesh, Pin Code-261206.
68. Rishabh Kumar Modanwal, Son of Shri Ravi Shankar Modanwal, Resident of Vill.- Mahul, P.O.- Mahul, P.S.- Ahiraula, District- Azamgarh, State- Uttar Pradesh, Pin Code-223225.
69. Shubham Gupta, Son of Shri Aditya Kumar Gupta, Resident of Mohalla - Kumharantola Gola Gokarannath, P.O. and P.S.- Gola Gokarannath, District- Lakhimpur Kheri, State-Uttar Pradesh, Pin Code-262802.
70. Dharmendra Kumar, Son of - Krishn pal, Resident of Vill.- Pannaha, Post- Pannaha, P.S. - Marka, District - Banda, State - Uttar Pradesh, Pin code - 210125.
71. Zubaida Khatoon, Daughter of - Ali Ahmad, Resident of Vill.- Matloobpur, P.O.- Nugpur, P.S.- Jalalpur, District- Ambedkar Nagar, State- Uttar Pradesh, Pin Code - 224149.
72. Sujata, Daughter of Virendra Pratap, Resident of- C/O Amit Shakya, 121/12 Maharana Pratap Nagar Etah, P.O. and P.S. - Etah, District- Etah, State-Uttar Pradesh, Pin Code- 207001.
73. Prajjwal Gupta, Son of Sri Manoj Gupta, Resident of Meerpara, Nagar Panchayat Hathgaon, ward no 8 Dighwara, Hathgaon P.O. and P.S.- Hathgaon, District-Fatehpur, State-Uttar Pradesh, Pin Code- 212652.
74. Rohit Kesharwani, Son of Shri Subhash Chandra Kesharwani, Resident of- 09 ChaukthaLohraBharatnagarShankargarh Bara Prayagraj, District- Prayagraj, State-Uttar Pradesh, Pin Code-212106.



75. KM Priyanka Yadav, Daughter of Arun Kumar, Resident of Village - Hafijpur, P.O.- Bharamau, P.S.-Rasulabad, District- Kanpur Dehat, State- Uttar Pradesh, Pin code - 209306.
76. Km Payal, Daughter of Shiwaprakash Verma, Resident of Ibrahimipatti Chak Habsapur Ballia, P.O.-Ibrahimipatti Ballia, P.S.-Bhimpura, State- Uttar Pradesh, Pin code - 221716.
77. Kamal Singh, Son of Anil Singh, Resident of Sindhan Kalan, P.O.- Sindhan Kalan, P.S. - Pailani, District- Banda, State- Uttar Pradesh, Pin code -210126.
78. Indresh Kumar Maurya, Son of Raghav Prasad Maurya, Resident of Vill.- Nahsapur, Post- Chakdahi, P.S.- Khalilabad, District- Sant Kabir Nagar, State- Uttar Pradesh, Pin Code-272175.
79. Babita, Daughter of Birendra Chaurasia, Resident of Village- Dharmer, P.O.- Dharmer, P.S.-Mail, District- Deoria, State- Uttar Pradesh, Pin code -274505.
80. Anuj Kumar Singh, Son of Harishchand Singh, Resident of 241, Vill. - Hauz Khas, P.O.and P.S.- Zafarabad, District- Jaunpur, State-Uttar Pradesh, Pin Code-222180.
81. Pulkit Sharma, Son of Shri Vinod Kumar Sharma, Resident of Nand Vihar Phase-1, Near SaiyyadChauraha , Melrose Bypass Road Aligarh , District- Aligarh, State-Uttar Pradesh, Pin Code-202001.
82. Jitendra Kumar Kushwaha, Son of Sri Ramkeval Kushwaha, Resident of Vill.-Kusamha Mahuawa, Post-Laxmiganj, P.S.-Ramkola, District- Kushinagar, State-Uttar Pradesh, Pincode-274306.
83. Anjali Mishra, Daughter Of - Mahendra Pratap Mishra Resident of Vill.- Basganv P.O.- Bhagasa, P.S.- Sarpataha District- Jaunpur, State- Uttar Pradesh, Pin Code- 223102.
84. Abhinav Singh, Son of Suresh Kumar, Resident of House No. 88, sector 6b, Phase 2, Buddhi Vihar Avas Vikas Moradabad, P.O. and P.S.-Majhola, District- Moradabad, State- Uttar Pradesh, Pin code - 244001.
85. Rinkee Pal, Daughter of Shri Ram Pal, Resident of Vill. -Khutahan, P.O.- Khutahan, P.S.-Khutahan, District-Jaunpur, State-Uttar Pradesh, Pin Code- 223104.
86. Awadhesh Kumar, Son of Virendra Singh, Resident of Vill.-Khairwa, P.O.- Kopia, P.S.- Bakhira, S.D.- Khalilabad, District- Sant Kabir Nagar, State- Uttar Pradesh, Pin Code- 272175.
87. Suchita Pandey, Daughter of Dinesh Pandey Resident of Vill. - Siswa Bazar Bijapar Pandey tola, Post - Siswa Bazar, Sub-division- Nichlaul, P.S.- Kothibhar, District - Maharajganj, State- Uttar Pradesh, Pin No.-273163.
88. Saista Bano, Daughter of Sabir Hussain, Resident of Bodh Bigha Mehendiya Arwal, P.O - Jaipur, P.S- Mehendiya, District-Arwal, State - Bihar, Pin code -804428.
89. Manu Kumari, Daughter of Ramesh Kumar, Resident of C1, 589a, Gali No. 22, Near Lal Mandir, P.O.- Harsh Vihar, District- North East Delhi, Pin Code-110093.
90. Vivek Tripathi, Son of Sri Onkar Nath Tripathi, Resident of Vill.-Haripur,



P.O.-KutirChakkey P.S.- Jalalpur, District-Jaunpur, State-Uttar Pradesh, Pin Code-222146.

91. Sahani Neelam Kumari Dharmraj, Daughter of Dharmraj Sahani, Resident of Vill.-Bibipur, Post-Fatehpur, Taluka-Narja, Mau, State- Uttar Pradesh, Pin Code-275304.
92. Vijay Saurabh Raj Singh, Son of Jitendra Kumar Singh, Resident of Rajput Newari, Post- BhriguAsharam,P.S.- Japlinganj Thana Kotwali Ballia, District- Ballia, State- Uttar Pradesh, Pin Code- 277001.
93. Nitesh Kumar Singh, Son of Ajay Kumar Singh, Resident of Tapni,Janaupur, Ballia ,P.O.- Janaupur,P.S.-Sukhpura, District- Ballia, State- Uttar Pradesh, Pin code -277123.
94. Km Shashi Dubey, Daughter of Pramod Kumar Dubey, Resident of Vill.- Shastri Nagar Chitbaragaon, P.O.and P.S.-Chitbaragaon, District-Ballia, State-Uttar Pradesh, Pin Code-221713.
95. Nitish Kumar Pandey, Son of Ramji Pandey, Resident of Vill.- Bariyarpur,P.O.- Sakarpura, P.S.-Bansdih, District- Ballia, State-Uttar Pradesh, Pin code - 277213.
96. Md Akhlaque Ahmad, Son of Md Ehsan Uddin, Resident of Vill.- RamnagarKharjama, P.O.- kochra, P.S.- Khudaganj, District - Nalanda, State- Bihar, Pin code- 801303.
97. Nirbhay Shankar, Son of Jitendra Singh, Resident ofVill.-Pashchimi English, Post-Bihta, P.S.- Imadpur, Dist.- Bhojpur, State- Bihar, Pin Code- 802209.
98. Nitish Kumar Kushwaha, Son of Satya Narayan Mahto, Resident of Village- Chharapatti, P.O.-Siktiyahi, P.S.-Khutauna, District-Madhubani, State-Bihar, Pin Code-847227.
99. Vikash Kumar, Son of Sanjay Chaudhary, Resident of Village and P.O.- Bhabua, P.S. and S.D.- Bhabua, District-Kaimur, State- Bihar, Pin Code- 821101.
- 100 Nitu Maurya, Daughter of Ramniwas Maurya, Resident of Vill.-Sauli, Post- Pakarahat, P.S.-Pannuganj, District -Sonbhadra, State-Uttar Pradesh, Pin Code-231213.
- 101 Vijay Kumar, Son of Mahesh Sharma, Resident of Village - Mahamadpur, P.O.-Mahamadpur Badal, P.S. -Sakra District -Muzaffarpur State- Bihar, Pin Code-843119

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Additional chief Secretary, Education Department, Old Secretariat, Bailey Road, Patna-800015.
3. The Secretary, Education Department, Old Secretariat, Bailey Road, Patna-800015.
4. The Director, Secondary Education, Education Department, Old Secretariat, Bailey Road, Patna-800015.
5. The Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey



Road, Patna.

- 6. The Chairman, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
- 7. The Joint Secretary -cum- Examination Controller, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Pranav Kumar, Advocate Ms. Shrishti Singh, Advocate
For the State	:	Mr. Yogendra Prasad Sinha, AAG-7 Mr. Shankar Kumar, AC to AAG-7
For B.P.S.C.	:	Mr. Lalit Kishore, Sr. Advocate Mr. Sanjay Pandey, Advocate Mr. Nishant Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
CAV JUDGMENT

Date : 18-07-2024

Heard Mr. Y.V. Giri, learned Senior counsel for the petitioner; Mr. Yogendra Prasad Sinha, learned AAG-7, representing the respondent-State and Mr. Lalit Kishore, learned Senior counsel for the respondent-B.P.S.C.

2. The petitioners have filed this writ petition with the following prayers:-

“(i) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondent Bihar Public Service Commission to publish the supplementary / revised merit list for teachers in primary school for Class I-V in advertisement no. 26 of 2023 dated 30.05.2023, against the vacancies that could not be filled due to ineligibility/disqualification of provisionally



successful candidates for non-passing of the CTET and D.El.Ed. Examination.

(ii) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to publish the result of the petitioners in the fresh supplementary list and call the petitioners for document verification and accordingly, allot respective schools after the publication of the supplementary / revised merit list for teachers in primary school for Class I-V against advertisement no. 26 of 2023 dated 30.05.2023.

(iii) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to consequently, lower down the cut-off date of birth in all the categories in the supplementary / revised merit list for teachers in primary school for Class I-V against advertisement no. 26 of 2023 dated 30.05.2023, and publish the revised merit list accordingly.

iv) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to not merge / include the leftover vacancy of advertisement no. 26/2023 dated 30.05.2023 with the future vacancy of teacher recruitment examination.

v) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to furnish the details of the vacancies accrued in primary teacher for class I to V due to the candidature



rejection of successful candidates in want of CTET & D.El.Ed. certificates and for any other reason.

(vi) To hold and declare that the respondent Bihar Public Service Commission is legally bound to publish the supplementary / revised merit list for teachers in primary school for Class I - V in advertisement no. 26 of 2023 dated 30.05.2023 and thereafter, on the basis of the supplementary / revised merit list for teachers, the appointments be made.

(vii) To any other reliefs for which the petitioners appear to be found entitled by the Hon'ble Court."

3. The Bihar Public Service Commission (hereinafter referred to as 'BPSC') had published advertisement No. 26/2023, dated 30.05.2022 under the signature of the Joint Secretary cum Examination Controller, BPSC inviting on-line applications for 1,70,461 posts for appointment of primary school teachers for class- 1 to 5, Secondary school teachers for class- 9 to 10 and Sr. Secondary school teachers for class 11 and 12. The above advertised posts included 79,943 posts of primary school teachers for class-1 to 5 for the subjects Urdu, Bangla and general subject. For general subject, the number of posts advertised was 67,066. The petitioners are concerned with 67,066/- posts advertised for primary school teachers for general



subject.

4. The advertisement, apart from providing eligibility criteria also provided that in case of the candidates obtaining same marks, age will be given precedence and in case, age will be the same, alphabetical order will be given priority. While advertisement provided 12.07.2023 as the last date of submission of on-line applications, B.P.S.C. published a corrigendum dated 22.06.2023, in which, it has been mentioned that the candidates, who had participated in CTET paper-I examination till 31.08.2023, will be allowed to participate in the examination. The petitioners, who possess all the requisite qualification, applied and had appeared in the written examination held on 24.08.2023 and 25.08.2023. The B.P.S.C. published result on 18.10.2023, wherein 62,653 candidates were declared successful for appointment as primary school teacher. At the time of publishing the result, the cut off marks and cut off date of birth for primary teacher for different categories, on the basis of written examination held on 24.05.2023 and 25.05.2023, was also published which are as follows:-

Sl. No.	Subject	UR	UR (female)	EWS	EWS (Female)	EBC	EBC (Female)	BC	BC (Female)	SC	SC (Female)	ST	ST (Female)	BCL	VI	DD	OH	MD	FFD
1.	Gen	67	57	56	48	55	44	60	50	47	39	46	39	48	39	39	50	39	39



Cut off Date of Birth
22.09.1986
10.07.1990
19.03.1995
05.07.1999
03.02.1996
18.03.1999
23.10.1994
23.03.1993
25.12.2001
25.12.2004
15.11.1999
25.06.2003
12.03.1997
01.02.2001
10.06.2002
02.01.1997
12.08.2003
12.06.2002

5. According to the petitioners, though, they have secured qualifying marks, as published by the B.P.S.C. for primary school teachers, their names were not included in the merit list, because of the cut off date of birth, fixed by the B.P.S.C., in which the petitioners were lesser in age than the selected candidates. The grievance of the petitioners is that though their names have not been included in the select list by the B.P.S.C., but against the 67,066 posts advertised under general subject category, only 62,653 candidates were selected by the B.P.S.C. for filling up the posts of primary teacher. The petitioners also contend that as a result of non-joining of the selected candidates as primary school teacher on account of multiple selection of the same candidates for different posts and also due to the selected candidates having not been found eligible for appointment, there has arisen 4619 vacancies of primary teacher, which was advertised vide advertisement no. 26 of 2023. The petitioners, therefore, contend that the B.P.S.C. ought to have published supplementary/additional select list to fill up the vacancies,



which have arisen due to non-appointment of the selected primary teachers for the reasons mentioned hereinabove. Since, the B.P.S.C., has not published supplementary/additional list, the petitioner prays for a direction to the B.P.S.C. to publish supplementary/additional select list for vacancies that have arisen due to non-appointment of the selected candidates for the reasons as mentioned hereinabove.

6. Respondent nos. 1 to 4 have contested the case by filing a counter affidavit and a supplementary counter affidavit by respondent no.4.

7. In paragraph nos. 8 to 20 of the counter affidavit filed by the respondent no. 4, it has been stated as under:-

“8. That most respectfully, here it is pertinent to mention that it has been prescribed at column 7 (iii) at page 10 of the advertisement that regarding qualification of candidates, their candidature shall be evaluated on the basis of the self-declaration by the candidates in the application form. It has also been mentioned at column 7 Note (kha) at page 10 of the advertisement that "In the applications received against the advertisement of the Commission, action shall be taken to conduct the Examination considering the claim of the applicants in relation to educational, training qualification. Teachers Eligibility Test and other eligibility related claims of the applicants as



true. After sending the provisional list prepared by the commission to the Education Department, department shall take steps at own level for checking the authenticity of the claims made by the candidates in relation to their eligibility in their application and then commence the process of appointment. After verification of the applicant's claims and documents submitted by them, the administrative / education department may modify the merit list".

9. That it is most humbly submitted that Rule 7 (viii) of the Bihar State School Teachers (Appointment, Transfer, Disciplinary Proceeding and Service Conditions) Rules, 2023 which prescribes the 'Process of Appointment' states that the recommendation of the Commission shall not provide the right to be appointed unless the administrative department after the verification of necessary certificates is satisfied that the candidate is appropriate for Appointment to the post of School teacher from all aspects.

10. That it is most humbly submitted that further Rule 9 (i) states that it shall be the duty of the appointing authority that they shall get the Educational / Training qualification and experience related certificates and other certificates verified as necessary, before issuing the Appointment letter. However, provisional appointment letter may be issued, in the interest of work and the certificates may be verified



within time limit fixed by the department. Rules 9 (ii) inter alia states that in case the certificate is found to be forged or incorrect, the appointment shall be cancelled.

11. That it is most humbly submitted that thus, the process of verification of claim of the applicants in relation to their eligibility as provided by them in the application form has been prescribed to be done by the department after the commencement of examination, declaration of results and receiving of provisional merit list. The department is well within the ambit of law to reject such names from the merit list which candidates do not possess the prescribed eligibility criteria.

12. That it is most humbly submitted that it is a well-settled proposition of law that a candidate must fulfill all the requisite criteria for appointment to a post and non-fulfillment of the prescribed eligibility criteria is a valid ground for not appointing the candidate on the said post.

13. That it is most humbly submitted that moreover, it is a well-settled proposition of law that a candidate does not acquire a guaranteed claim of appointment even though his / her appears in the merit list. The appointment is always subject to fulfilment of all the eligibility and all the process prescribed in relation to the same. There is no vested right / claim over appointment to any post. At the cost of repetition, it is respectfully submitted that Rule 7



(viii) of Rules, 2023 states that the recommendation of the Commission shall not provide the right to be appointed unless the administrative department after the verification of necessary certificates is satisfied that the candidate is appropriate for appointment to the post of School teachers from all aspects.

14. That it is most humbly submitted that it is a well-settled proposition of law that it is for the appointing authority to prescribe the mode of selection and minimum qualification for any recruitment. Where the petitioners have undertaken the exam with the stipulations contained in the advertisement and then having not qualified, they cannot turn round and contend that the provision regarding conduct of examination was not proper. Estoppel shall apply on the candidates undertaking the examination.

15. That it is most humbly submitted that from the above discussion it is abundantly clear that the BPSC has been entrusted with the duty of conducting the examination and declaration of results. The examination was conducted as per the Rules, 2023 and terms of the advertisement no. 26 / 2023. The appointment to be done on the basis of recommendation of the BPSC was subject to verification of eligibility of candidates as the examination was conducted by accepting the details provided by the applicants as true and the department was empowered to reject names of such candidates from the merit



list who did not possess the prescribed eligibility criteria.

16. That it is most humbly submitted that so far as the issue of supplementary results published against the multiple results of candidates is concerned, the Commission has rightly published the supplementary list on account of multiple results of same candidates in various categories / subjects. It has no relation with the eligibility criteria of the qualified candidate and it has only published results on such seats which remained vacant due to reason that result of same candidate appeared on multiple seats. Rule 7 (iv) states that the Commission shall determine the pattern of the examination for which it may consult and take advice with the department as per requirement and Rule 7 (v) states that the discretion to fix cut-off marks for the examination shall vest with the Commission. Thus, the BPSC is well within the ambit of law to determine cut-off for various categories and declare results accordingly. Declaration of supplementary result on account of multiple results is not arbitrary exercise of power.

17. That it is most humbly submitted that it is well-settled proposition of law in one Civil Appeal No. 5588 / 2010 (Municipal Corporation of Delhi vs. Surender Singh & ors.) [2019 INSC 852] at paragraph 19 of the judgment the recruiting agency cannot be compelled to fill up all available posts even if the persons of the



desired merit are not available. If the employer / recruitment agency has fixed a cut-off position, the same is not to be tinkered with unless it is totally irrational or tainted with malafides. The decision of the employer to appoint a particular number of candidates cannot be interfered with unless it is irrational or malafide.

18. That it is most humbly submitted that the method of recruitment, laying down the eligibility criteria etc. were matters related to the executive policy decisions and in the absence of any statutory rules / laws, the executive decisions are sustainable. Further, the Education department had no objection to the method adopted by the BPSC.

19. That it is most humbly submitted that the allegation of discrimination is not sustainable in as much the respondents as have miserably failed to demonstrate as to how the criteria of fixing the cut-off marks / cut-off date of birth was arbitrary when it has been uniformly applied to all the candidates. It is well within the ambit of law for the BPSC to fix a cut-off required for eligibility for the post with a view to maintain the high standard of competition. So far as the issue pertaining to compilation and preparation of results is concerned, it is done by the BPSC and it is the appropriate body to answer the issues in this regard.

20. That on the issue of the corrigendum dated 22.06.2023 it is most humbly submitted



that Rule 5 of the Rules, 2023 prescribes eligibility criteria wherein inter alia Rule 5 (iii) of the Rules, 2023 states that qualified in Teachers Eligibility test conducted by the State government / Central government from time to time and Rule 5 (iv) of the Rules, 2023 states that the department shall determine special qualifications for particular subject from time to time. Further, Rule 19 (iv) empowers the department to clarify any provision of the Rules and remove difficulty arising in its implementation.”

8. In paragraph nos. 6 to 9 of the supplementary counter affidavit filed by the respondent no.4, it has been stated as under:-

“6. That in reply to paragraph 6 and 7 of the Rejoinder under reply, it is most humbly submitted that the letters as quoted by the petitioner are departmental communications. The decision to publish supplementary results only on such seats which became vacant due to multiple results was final and there was no conclusive decision to declare supplementary results on seats which became vacant due to rejection of candidature of ineligible candidates at the time of counselling and document verification. Rule 7 of Rules, 2023 inter alia



prescribes that the Commission shall declare the results and the appointment shall be done in accordance with the recommendation given by the BPSC. Thus, it is within the ambit of the BPSC to declare results and the letter from the department is merely departmental communication and not conclusive decision on this issue. As document verification is a process which was conducted after declaration of results and which continued for quite some time, it was not possible to comprehend the total number of vacant seats arising due to such rejection thus, supplementary results were published only against such seats which turned out to be vacant due to multiple results. Rule 9 (i) of Rules, 2023 inter alia prescribes that provisional appointment letter may be issued, in the interest of work and the certificates may be verified within the time prescribed by the department. Rule 11 of the Rules, 2023 inter alia prescribes that the confirmation in service shall be done after satisfactory completion of probation period, successful completion of training and verification of Educational / training certificates etc. Thus, the Rules, 2023 envisions that the process of document verification may take time and thus, it was not possible to comprehend the total number of vacancies arising due to such document verification process. On the other hand, the



total number of seats on which there are multiple results declared are certain and appears to be available at the time of declaration of results only. Both the instances i.e., vacant seats arising due to declaration of multiple results and vacant seats arising due rejection of candidature on account of not fulfilling eligibility criteria are completely different. Accordingly, the decision to publish supplementary results only on such vacant seats which became vacant due to multiple results is justified and not arbitrary. Contrary to the contention of the petitioners, the issue/case of declaration of supplementary results against the vacant seats due to rejection of candidature of such candidates who do not possess requisite eligibility, does not attract equality with the case of seats that were vacant due to multiple results and the cut-off position including, the cut-off marks and cut-off date of birth as determined by the Commission based on the number of seats available at the time of declaration of supplementary results is justified and not-arbitrary.

7. That in reply to paragraph 8 of the Rejoinder under reply, it is most humbly submitted that the supplementary results as quoted by the petitioner in this paragraph does not relate to vacant seats of Education department. It relates to the vacant seats of Backward Class and Extremely Backward



Class department. The appointment of School teachers in Education department and appointment of School teachers in Backward and Extremely Backward Class department is being regulated by different Rules though they were advertised under the same advertisement. The appointment of school teachers in Education department is regulated by Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceedings and Service Condition) Rules, 2023 whereas the appointment of School teachers in Backward and Extremely Backward Class department is being regulated by Bihar State Backward class and Extremely Backward Class Girls Residential +2 Higher Secondary Teacher (Appointment, Promotion, Disciplinary Proceedings and Service Conditions) Rules, 2023. The two class of teachers are entirely different and regulated by different departments of the State government. Moreover, the supplementary results as quoted by the petitioner is in relation to advertisement no. 27 / 2023 whereas the matter in hand relates to advertisement no. 26 / 2023. Hence, there is no question of comparison between the two completely different class. Supplementary results on account of absence of candidates in relation to BC and EBC Welfare department and supplementary results on account of rejection of candidates



on account of not fulfilling eligibility in Education department is a completely different scenario and beyond prudent comparison.

8. That in reply to paragraph 11 of the Rejoinder under reply, it is most humbly submitted that the scheme of the examination allowed any person to appear in the examination subject to verification of document and eligibility after declaration of results. The same has been elaborately produced in the Counter Affidavit filed by the answering respondent earlier.

9. That in reply to paragraph 12 and 13 of the Rejoinder under reply, it is most humbly submitted that upon perusal of the advertisement dated 10.11.2023, it transpires that the remaining vacancies of advertisement no. 26 / 2023 on which there was no recommendation by the Commission to the Education department, has been carried forward to the advertisement no. 27/2023. It is correct that the vacancies in class I - V which arose at the time of counselling was not carried forward in advertisement no. 27 / 2023 but has been carried forward in advertisement no. 22 / 2024 which can be ascertained by letter no. 350 dated 05.02.2024 issued by the Director, Secondary Education to all District Education Officers in which there was specific instruction that the remaining



vacancies of TRE-I and TRE-II are to be included in TRE-III.”

9. B.P.S.C./respondent nos. 5 to 7 have filed a counter affidavit, wherein in paragraph nos. 7 to 19, it has been stated as under:-

“7. That it is stated that on the basis of requisition sent by the Education Department of the State Government, the Commission published Advertisement No. 26/2023 (TRE 1.0) on 30.05.2023 inviting applications from suitable candidates for appointment on 1,70,461 posts of school teachers for class 1 to 5, class 9 to 10 and class 11 to 12 for different subjects with all the terms and conditions including requisite educational qualifications mentioned therein. For class 1 to 5, total number of vacant seats were 79,943.

8. That it is stated that the required essential qualification for appointment of School Teacher for Class 1-5, according to the requisition of the concerned Department and as published in the Advertisement Nos. 26/2023 are as follows:

3. Essential qualification for appointment to the post of School



Teacher shall be as follows:-

(A) Educational and training qualifications for appointment to the post of basic category (class 1-5) school teacher: Senior Secondary (or its equivalent) with minimum 50% marks and two-year Diploma in Elementary Education (by whatever name called)

Or

Senior Secondary (or its equivalent) with minimum 45% marks and two-year Diploma in Elementary Education (by whatever name called) obtained in accordance with the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2002.

Or

Senior Secondary (or its equivalent) with minimum 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed.)

Or

Senior Secondary (or its equivalent) with minimum 50% marks and two-year Diploma in Education (Special Education)

Or

Graduation and two-year Diploma in Elementary Education (by whatever



name known)

Or

*Graduation with 50% marks and
Bachelor of Education (B.Ed.),*

Or

*Post Graduate with minimum 55%
marks or its equivalent grade and three-
year integrated B.Ed., M.Ed.*

*Similarly, the educational and
training qualification for the teachers of
other classes are also given in clause 4
(B) and onward.*

Clause 4 (M) provides that-

*Note- Those candidates for teacher
training who possess educational
qualification, have passed the eligibility
test and have completed teacher training
and are going to appear in the teacher
training examination will also be able to
apply for appointment to the post of
school teacher, provided the teacher
training examination should be
completed by 31.08.2023.*

*They will have to provide the proof
of participation in such examination till
31.08.2023, such as original copies of
all necessary certificates related to
educational qualification including
admit card and examination result, when
asked for verification by the Commission*



and after verification, their educational qualification will be valid. They will also have to give a self-declaration to this effect at the time of application.

If all the certificates related to this have already been issued at the time of submission of application, then the above self-declaration-based option will not be applicable and such a candidate will have to compulsorily mention such certificates in the online application and also give a photocopy of the same.

9. That it is stated that applications were received within time and the applicants were provisionally admitted to the examination by allotting them a particular enrollment number. The candidates applied for the post of school teacher for class 1 to 5 under different categories and were allotted their respective roll numbers.

10. That it is stated that thereafter, the Commission published notice dated 05.08.2023 giving schedule of written (objective) examination for class - 1 to 5 on 24.08.2023 and 25.08.2023.

11. That it is stated that the Commission published the final result for class 1 to 5 on 18.10.2023 declaring altogether 62,653 candidates successful.



12. That with regard to the statement made in paragraph nos. 7 and 20 of the writ petition, it is stated that the Commission published the Corrigendum dated 22.06.2023 allowing candidates participating in CTET Paper I to apply, provided the examination must be completed by 31.08.2023. The Commission has done so in order to give chance to more and more candidates to participate in the examination. Moreover, it is not in violation to Rule 5 of Bihar State School Teacher (Appointment Transfer, Disciplinary Proceeding and Service Conditions) Rule, 2023. It is further stated that Rule 5 says that at the time of appointment the candidate must have passed the Teacher Eligibility Test conducted time to time by the Central Government and the State Government.

13. That with regard to the statement made in paragraph nos. 14, 15, 16, 17 & 23 of the writ petition for non publication of supplementary result, it is stated that in fact, the Director Secondary Education) vide letter no. 2207 dated 24.10.2023 informed the Commission that recommendation of 122000 candidates has been made



against the advertised post of 170461 under Advt. No. 26/2023. Apart from this some candidates were declared ineligible due to not having qualification and some candidates have been selected on more than one post. So, the Education Department requested the Commission to send recommendation on vacancies arising due to ineligible candidates and candidates selected/recommended on more than one posts. In view of the above fact the Commission vide letter no. 2602 dated 26.10.2023 requested the department concerned to provide details of such vacancies. Thereafter, the Commission after receiving the details published the supplementary result on 10.12.2023 declaring altogether 467 candidates successful.

14. That it is further submitted that the Commission on 27.10.2023 published notice to invite online objections from the candidates in connection with the result published under Advt. No. 26/2023 which were to be filed from 29.10.2023 to 12.11.2023 by uploading the affidavit in this regard. The objections filed by the candidates by way of affidavit in connection with the result published under Advt. No. 26/2023



were duly considered by the Commission and the Commission published the supplementary result on 12.01.2024 declaring such candidates successful who have secured more marks than the cut-off marks in their respective categories.

15. That so far as allegation with regard to permitting the ineligible candidates to participate in the selection process as stated in paragraph nos. 19, 20, 21, 22 to the writ petition is concerned, it is stated that the Commission published the Advt. No. 26/2023 for appointment of school teachers containing all the terms and conditions in unambiguous manner. Clause 7 (kha) of the advertisement clearly stipulates that the examination will be advertisement clearly stipulates that the examination will be conducted by the Commission considering the claims of the candidates with respect to educational, teachers training, eligibility and other qualification true which were filled up in the application form by them. Thereafter, the provisional merit list of successful shall be sent to the department concerned and the said department shall appoint such



candidates after verification of documents and the concerned department may also amend the merit list. Clause 9 under heading Verification of Documents of the advertisement clarifies that "it will be the responsibility of the appointing authority to get the necessary verification done before issuing the appointment letter qualification and other certificates including certificates related to passing teachers eligibility/ efficiency test". Clause 11 of the advertisement again clarifies that the Commission shall consider the information given by the candidates true and the document verification shall be done by the appointing authority. Thus, the Commission has neither violated any provisions of Bihar State School Teacher (Appointment Transfer, Disciplinary Proceeding and Service Conditions) Rule, 2023 and has neither changed the rules of game in midst of the selection process.

16. That with regard to the statement made in paragraph no. 26 of the writ petition it is stated that the Hon'ble Apex Court vide order/judgment dated 11.08.2023 passed in Civil Appeal



No. 5068/2023 has held that the candidates having B.Ed. degree are not eligible for teaching class 1-5 students. Only candidates with D.El.Ed. degree are eligible for the same. In view of the above facts the Commission published the notice dated 05.09.2023 by which an opportunity was granted to the candidates who had applied under primary teachers for class 1 to 5 on the basis of B.Ed. degree to upload the D.El.Ed certificate from 09.09.2023 to 11.09.2023.

17. That with regard to the statement made in paragraph no. 24 & 28 of the writ petition it is stated that total 50,263 vacant posts of School Teachers under the Advt. 26/2023 under the Education Department, Bihar was left over after the selection process of Advertisement No. 26/2023. The Commission on receipt of requisition from the education department published the notice dated 10.11.2023 informing therein that the aforesaid 50,263 vacant posts of Advertisement No. 26/2023 was included in Advertisement No. 27/2023. Thereafter, the selection process under Advt. No. 27/2023 (TRE-2) has also been completed.



18. That it is stated that the Commission having published the final result sent the merit list to the Education Department, Government of Bihar and thereafter, the appointments have been made. Thus, the selection process is over.

19. That it is pertinent to state that having completed the selection process under Advt. No. 26/2023 (TRE-1), the selection process under Advt. No. 27/2023 (TRE- 2) has also been completed. Thereafter, the Advt. No. 22/2024 (TRE-3) has also been published by the Commission on 07.02.2024 for appointment of school teachers.”

10. The petitioners have filed a rejoinder to the counter affidavit, filed by the respondent-State as well as respondent-BPSC.

11. In the rejoinder filed, it is contended that the department through its letter dated 24.10.2022, had raised the concern with B.P.S.C. that several vacancies have arisen due to non-appointment of the candidates who have been declared ineligible and also by virtue of the many candidates, having been recommended against multiple posts. Accordingly, the



department stated in the letter that this would lead to further decrease in the number of recommended candidates joining as primary teachers. Therefore, the department accorded its permission to the Commission for recommendation of the vacancies that have arisen due to declaration of candidates ineligible for appointment and many candidates having been recommend against multiple posts. Pursuant to the permission of the department for recommendation of more candidates, communicated to the commission, vide letter dated 24.10.2023, the B.P.S.C. requested the department through its letter dated 26.10.2024, to prepare a detailed description of the vacancies that have arisen due to the candidates having been declared ineligible for appointment and the candidates not joining the service because of the same candidate recommended against multiple posts. The B.P.S.C., thereafter, published a supplementary result on 10.12.2023 for the vacancies that have arisen due to non-joining of those candidates who have been recommended against multiple posts. This, the petitioner contends, was in contradiction with the decision taken by the department, conveyed through its letter dated 24.10.2023, to include recommendations arising out of vacancies created due to candidates declared ineligible for appointment as well.



12. The petitioners further contend in their rejoinder that out of 67066 vacancies advertised for primary school teacher for general subject, more than 4619 vacancies remained unfilled due to the candidates being declared ineligible, which was not merged in the advertisement no. 27/2023 (TRE-II). Though, 67066 posts were advertised for primary school teacher for general subject, the declaration of result for the said posts, however, was only for 62653 candidates. Therefore, result of 4413 vacancies were not published. It is the 4413 vacancies that have been merged in the advertisement no. 27/2023 (TRE-II).

13. The petitioners further contend that out of the result published for 62653 candidates, approximately 4619 candidates were declared ineligible, which still remains vacant as the said posts have not been merged with the advertisement no. 27/2023 (TRE-II). The respondents, however, claim that these posts have been carried forward in the advertisement no. 22/2024 (TRE-III).

14. Learned counsel for the contesting parties have advanced their arguments.

15. By referring to the letter dated 24.10.2023, written by the department to the B.P.S.C. conveying its consent for making further recommendation to fill up the vacancies that have arisen



due to the same candidate having been selected for multiple posts and also the vacancies that have arisen because of the selected candidates having been found ineligible to be appointed and also the letter dated 26.10.2023, written by the B.P.S.C. to the department asking the department to furnish the actual number of vacancies that have occurred in each of the categories specified hereinabove, learned Sr. counsel for the petitioner has contended that the B.P.S.C. has published a supplementary result of primary school teacher recommending 467 candidates against the vacancies that have arisen due to non-joining of the candidates selected and recommended for multiple posts in the recruitment held vide advertisement no. 26/2023 (TRE-I), but no such supplementary result for the vacancies that have occurred due to the selected candidates found ineligible for appointment, have been published by the BPSC.

16. Learned Sr. counsel further contends that since vacancies of the primary school teacher still exist due to the selected candidates found ineligible for appointment, the B.P.S.C. ought to have published the supplementary result for the vacancies that have arisen due to the selected candidates found ineligible for appointment as have been published in the case of vacancies that have occurred due to non-joining of the



candidates as primary school teacher, who have been selected for multiple posts.

17. Learned Sr. counsel further contends that the BPSC, by not publishing the supplementary result for the vacancies, that have occurred due to selected candidates having been found ineligible for appointment while the supplementary result for vacancies that have occurred due to non-joining of the candidates as primary school teacher on account of candidates having been selected for multiple posts, have acted in a discriminatory manner, for which the respondents are liable to be directed to publish a supplementary result of the advertisement no. 26/2023 (TRE-I) for appointment of primary school teacher against the vacancies that have occurred due to the selected candidates found ineligible for appointment.

18. Learned counsel representation the respondent-State has contended that the appointments have been made by the authorities strictly in accordance with the Bihar State School Teacher (Appointment Transfer, Disciplinary Proceeding and Service Conditions) Rules, 2023 (hereinafter referred to as 'the Rules, 2023'), which provides for making an appointment of the recommended candidates by the commission only after verification of necessary certificates and on satisfaction that the



candidate is found appropriate for appointment to the post of primary school teacher. Therefore, no illegality has been committed by the respondent authorities.

19. Learned counsel for the respondent-State further contended that the unfilled vacancies have been carried forward in the subsequent advertisement in terms of policy decision of the state which was conveyed to all the District Education Officers by the Director, Secondary Education vide letter dated 05.02.2024.

20. Learned Sr. counsel representing the BPSC has argued that the selection and recommendation of the candidates for appointment as teacher was made strictly in accordance with the relevant recruitment rules and the advertisement no. 26/2023(TRE-I). Learned Sr counsel further submits that the role of the BPSC is limited to making a fair selection by following the due procedure prescribed in accordance with the recruitment Rules. In the instant case, the recommendation of the selected candidates have been made by following the relevant recruitment rules and also the procedure of selection prescribed under advertisement no. 26/2023 (TRE-I) and accordingly, the B.P.S.C. cannot be faulted for the selection and the recommendation made.



21. I have heard learned counsel appearing for the parties and perused the materials placed on record.

22. The B.P.S.C. had published advertisement no. 26/2023 (TRE-I), dated 30.05.2023, under the signature of the Joint Secretary-cum-Examination Controller, Bihar Public Service Commission inviting online applications for 1,70,461 posts for appointment of primary school teacher, Secondary school teacher and senior secondary school teacher. The above advertised post included 79,943 posts of primary school teachers for the subjects Urdu, Bangla and general subjects. For general subject, number of post advertised was 67066. The petitioners are concerned with 67066 posts advertised for primary school teachers for general subjects. The adjudication of this writ petition, therefore, is confined to 67066 posts advertised by the B.P.S.C. for general subject vide advertisement no. 26 of 2023 (TRE-I).

23. The selection and appointment of teachers is made under the Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceeding and Service Conditions) Rules, 2023 (hereinafter referred to as 'the Rules, 2023').

24. The petitioners are not aggrieved by the process of selection as well as the process of appointment adopted by the



respondent authorities.

25. Rule 7 of the Rules, 2023 provides for process of appointment, which reads as under:-

*“7. **Process of Appointment.**-(i) After calculation of the vacant seats along with roster clearance at the district level, the reservation category wise requisition shall be sent to the Commission for direct appointment to the post of School teacher, by the Education Department.*

(ii) The Commission shall advertise the number of vacant posts in relation to the requisition received for direct appointment. The candidature of the teacher- candidate shall be evaluated on the basis of the self declaration by the candidate in relation to qualification in the application form advertised by the Commission.

(iii) Syllabus for examination shall be determined by the Commission in consultation with the Administrative Department. As per the determined syllabus, the Commission shall conduct examination, set question paper, evaluate the answer sheets and publish the results.

(iv) The Commission shall determine the pattern of the examination for which it may consult and take advice with the Department as per requirement.

(v) The discretion to fix cut-off marks for



the examination shall vest with the Commission.

(vi) Any candidate can appear, maximum three times, at an examination conducted under these rules.

(vii) Appointment shall be done in accordance with the recommendation on the basis of the examination conducted by the Commission.

(viii) The recommendation of the Commission shall not provide the right to be appointed unless the Administrative Department after the verification of necessary certificates is satisfied that the candidate is appropriate for appointment to the post of School teacher from all aspects.”

26. The process of appointment of teachers as provided under Rule 7 of the Rules, 2023 provides that after the commission publishes the advertisement on the basis of the requisition received from the department, the candidates are allowed to participate in the selection process on the basis of self declaration made by the candidates in relation to qualification in the application form filled up by the candidates. Syllabus and the pattern of the examination are determined by the Commission in consultation with the Administrative Department. The Commission has also the discretion to fix cut



off marks for the examination. Once the recommendation is made by the Commission after the selection is made on the basis of syllabus and pattern of the examination and cut off marks prescribed for the examination, the administrative department makes appointment after verification of the necessary certificates submitted by the candidates and on satisfaction of the department that the candidate is appropriate in all aspects for appointment to the post of school teacher.

27. Thus, it is noticed from the process of appointment, as provided under Rule 7 of the Rules, 2023, that the candidates are allowed to participate in the selection process on the basis of self declaration made by the candidates in relation to qualification in the application form advertised by the Commission, which may not necessarily be correct and authentic and the same is subjected to further verification by the Administrative Department at the time of appointment. It is only those recommended candidates, who have been found by the Administrative Department on verification of necessary certificates that the candidates are eligible and the department is satisfied that the candidates are appropriate for appointment of teachers in all aspects, are appointed.

28. The process of appointment prescribed in Rule 7 of



the Rules, 2023 appears to have been incorporated in the advertisement no. 26/ 2023 (TRE-I).

29. On the basis of written examination conducted on 24/25.08.2023, the B.P.S.C. had published the result on 18.10.2023, whereby 62,653 candidates as against 67066 posts advertised, were recommended for appointment as primary school teacher. The aforesaid result has been published by the B.P.S.C. on the basis of written examination and the cut off marks and cut off date of birth adopted by the B.P.S.C. The cut off marks and cut of date of birth adopted by the B.P.S.C. for primary school teacher for different categories is found to be as under:-

Sl. No.	Subject	UR	UR (female)	EWS	EWS (Female)	EBC	EBC (Female)	BC	BC (Female)	SC	SC (Female)	ST	ST (Female)	BCL	VI	DD	OH	MD	FFD
1.	Gen	67	57	56	48	55	44	60	50	47	39	46	39	48	39	39	50	39	39

Cut off Date of Birth	22.09.1986	10.07.1990	19.03.1995	05.07.1999	03.02.1996	18.03.1999	23.10.1994	23.03.1993	25.12.2001	25.12.2004	15.11.1999	25.06.2003	12.03.1997	01.02.2001	10.06.2002	02.01.1997	12.08.2003	12.06.2002
-----------------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------	------------

30. The 62653 candidates recommended by the B.P.S.C. were subjected to further verification by the department. The appointments were made to those candidates who were found to be eligible under the Rules, 2023 for appointment of the primary school teacher.



31. During the course of verification of certificates by the department in terms of Rule 7 of the Rules, 2023, it appears that all the recommended 62653 candidates could not be appointed, as many of the candidates were found to be ineligible for appointment under the Rules, 2023 and many recommended candidates did not join because of such candidates having been selected for the multiple posts.

32. Confronted with the number of unfilled vacancies, despite the recommendation made by the B.P.S.C., it appears that the department through Director of Secondary Education has written a letter to the Secretary of the B.P.S.C. on 24.10.2023. The aforesaid letter has been annexed as Annexure R/B(series) to the counter affidavit filed by the respondent nos. 5 to 7 (BPSC). For ready reference, the said letter is reproduced hereinbelow:-

"संचिका संख्या-11/वि 11-18/2023-2207

बिहार सरकार

शिक्षा विभाग, बिहार, पटना।

प्रेषक,

कन्हैया प्रसाद श्रीवास्तव,
निदेशक (गाध्यमिक शिक्षा)।

सेवा में,

सचिव,
बिहार लोक सेवा आयोग,
बिहार, पटना।

पटना, दिनांक

24.10.2023

विषय:-

शिक्षा विभाग, बिहार, पटना के नियंत्रणाधीन प्राथमिक, माध्यमिक एवं उच्च माध्यमिक विद्यालयों में बिहार लोक सेवा आयोग के विज्ञापन संख्या -



26/2023 के द्वारा विद्यालय अध्यापक के पद पर नियुक्ति हेतु। आयोग से प्राप्त अनुशंसित सूची में अनर्हता (ineligible) एवं एक ही अभ्यर्थी के एक से अधिक पदों पर चयन होने के संबंध में।

महाशय,

निदेशानुसार उपर्युक्त विषय के संबंध में अंकित करना है कि शिक्षा विभाग, बिहार, पटना के नियंत्रणाधीन प्राथमिक, माध्यमिक एवं उच्च माध्यमिक विद्यालयों में बिहार लोक सेवा आयोग के विज्ञापन संख्या-26/2023 के द्वारा विद्यालय अध्यापक के पद पर आयोग द्वारा अनुशंसित अभ्यर्थियों का काउंसिलिंग उनके आवंटित जिलों में कराया जा रहा है। बिहार लोक सेवा आयोग द्वारा विज्ञापित 170461 पदों के विरुद्ध मात्र लगभग 122000 अभ्यर्थियों का ही नियुक्ति हेतु अनुशंसा किया गया है। उसके अतिरिक्त कुछ अभ्यर्थी योग्यताधारण नहीं करने के कारण अनर्हता (ineligible) है एवं कुछ अभ्यर्थी एक से अधिक पदों पर चयनित भी हो गये हैं। ऐसी स्थिति में योगदान करने वाले विद्यालय अध्यापकों की संख्या और भी कम हो सकती है।

अतः अनुरोध है कि अनर्हता (ineligible) अभ्यर्थियों एवं एक से अधिक पदों पर अनुशंसित अभ्यर्थियों से उत्पन्न होने वाली रिक्तियों पर आयोग द्वारा अनुशंसा भेजने हेतु विभाग की सहमति संसूचित की जाती है।

विश्वासभाज

न,

निदेशक

(माध्यमिक शिक्षा)।"

33. The english translated copy of the letter dated 24.10.2023 has also been provided by the learned Senior counsel for the petitioner across the board.

34. By the aforesaid letter dated 24.10.2023, the Director, Secondary Education has written to the Secretary, B.P.S.C. that against 170461 posts advertised vide advertisement no. 26/2023 (TRE-I) by the B.P.S.C, only about 1,22,000 candidates have been recommended for appointment. That apart, some of the candidates are found ineligible for appointment due to non-possessing of the requisite qualification and some of the candidates having been selected for more than one post, the number of candidates available for appointment may decrease. Under the above circumstances, the Director, Secondary



Education vide the letter dated 24.10.2023 has informed the B.P.S.C. that the consent of the department is hereby conveyed to the Commission for sending recommendation for the vacancies that have arisen due to many of the candidates found ineligible and many of the candidates selected for multiple post.

35. On receipt of the aforesaid letter dated 24.10.2023, from the Director, Secondary Education, the Secretary, B.P.S.C. wrote back to the Director, Secondary Education, vide letter dated 26.10.2023. The said letter has been annexed as Annexure-R/B (series) to the counter affidavit filed by respondent nos. 5 to 7 (BPSC), which reads as follows:-

"पत्र संख्या.. 2602 / लो.से.आ.
बिहार लोक सेवा आयोग, पटना

प्रेषक,
रवि भूषण, भा.प्र.से.
सचिव,
बिहार लोक सेवा आयोग, पटना

सेवा में,
कन्हैया प्रसाद श्रीवास्तव, भा.प्र.से.
निदेशक (माध्यमिक शिक्षा)
शिक्षा विभाग, बिहार, पटना

पटना, दिनांक
26/10/2023.

विषय:-
शिक्षा विभाग, बिहार, पटना के नियंत्रणाधीन प्राथमिक, माध्यमिक एवम् उच्च माध्यमिक विद्यालयों में बिहार लोक सेवा आयोग के विज्ञापन संख्या- 26/2023 द्वारा विद्यालय अध्यापक के पदों पर नियुक्ति हेतु आयोग से प्राप्त अनुशंसित सूची में अनर्हित (Ineligible) एवम् एक ही अभ्यर्थी के एक से अधिक पदों पर चयन होने के सम्बन्ध में।

प्रसंग:-
शिक्षा विभाग, बिहार के पत्रांक- 2207, दिनांक 24.10.2023.

महाशय,
उपर्युक्त विषयक प्रसंगाधीन पत्र के संबंध में कहना है कि विज्ञापन संख्या - 26/2023 (प्राथमिक, माध्यमिक एवम् उच्च माध्यमिक विद्यालयों) में विद्यालय अध्यापक के पदों



पर नियुक्ति हेतु शिक्षा विभाग, बिहार, पटना द्वारा दस्तावेज / प्रमाण-पत्रों के सत्यापन के क्रम में योग्यताधारण नहीं करने के कारण अनर्हित (Ineligible) अभ्यर्थियों एवम् एक अभ्यर्थी एक से अधिक पदों पर अनुशंसित अभ्यर्थियों से उत्पन्न होने वाली रिक्तियों पर आयोग से अनुशंसा भेजने हेतु शिक्षा विभाग द्वारा सहमति व्यक्त की गयी है।

अतः उपर्युक्त वर्णित तथ्यों के आलोक में कहना है कि योग्यताधारण नहीं करने के कारण अनर्हित (Ineligible) अभ्यर्थियों एवम् एक से अधिक पदों पर अनुशंसित अभ्यर्थियों से उत्पन्न होने वाली रिक्तियों के सम्बन्ध में एक विस्तृत विवरणी तैयार कर आयोग को उपलब्ध कराया जाय।

विश्वासभाजन,
(रवि भूषण)
सचिव,

बिहार लोक सेवा आयोग, पटना"

36. The english translated copy of the letter has been made available by the learned Senior counsel for the petitioner across the board.

37. On perusal of the letter dated 26.10.2023, written by the Secretary, B.P.S.C., to the Director, Secondary Education, Education Department, Bihar, Patna, it appears that the Secretary, B.P.S.C., by way of reply to the letter of Director, Secondary Education dated 24.10.2023, has requested the Director, Secondary Education to prepare a detailed description regarding the vacancies that have arisen due to the candidates not possessing required qualification and the candidates recommended for more than one post.

38. Thus, it appears that even after the appointments have been made by the department on the basis of the recommendation made by the B.P.S.C. pursuant to the advertisement no. 26/2023 (TRE-I), many posts of primary



school teachers remained vacant due to rejection of the recommended candidates for not possessing the required qualification as well as recommended candidates not joining as primary teacher because of their multiple selection for appointment of teachers other than primary school teacher as well.

39. Though, no further communication from the Director, Secondary Education, Education Department, Bihar, Patna in response to the B.P.S.C's letter dated 26.10.2023 has been brought on record, the B.P.S.C. had published a supplementary result on 10.12.2023 (Annexure-R/B series of the counter affidavit of respondent nos. 5 to 7), whereby 467 candidates have been recommended for appointment as primary school teacher against the vacancies that have arisen due to the candidates not joining as primary teacher because of their selection on multiple post.

40. No supplementary result has, however, been published by the B.P.S.C. for filling up the vacant posts that have arisen on account of recommended candidates found not eligible by the department.

41. As to why, no such supplementary result has been published for the vacancies that have arisen due to non-



appointment of recommended candidates for want of eligibility, the respondent no. 4, in paragraph no. 16 of the counter affidavit filed, has attempted an answer wherein it has been stated that the Commission has rightly published the supplementary result on account of multiple result of same candidates in various categories/subjects, but it has no relation with eligibility criterion of the qualified candidates. The attempted answer of the respondents no. 4, thus, is found to have not answered with clarity as to why the supplementary result has not been published for the vacancies that have arisen due to non-appointment of the recommended candidates for want of requisite qualification, even though, the supplementary result for the vacancies, arisen due to non-joining of the recommended candidates selected for multiple posts, have been published.

42. What happened to those vacancies that have arisen due to recommended candidates having been found by the department ineligible for appointment?

43. The B.P.S.C./respondent nos. 5-7 and the department/respondent nos. 1-4 answers it in different manner in their counter affidavit.

44. Respondent nos. 5 to 7/BPSC in paragraph nos. 17, 18 and 19 of the counter affidavit has stated that 50263 vacant



posts of school teachers advertised vide advertisement no. 26/2023 (TRE-I), remained unfilled even after completion of the selection process. The Commission, on receipt of requisition from the Administrative Department, published a notice dated 10.11.2023 informing that aforesaid 50263 vacant posts which were advertised vide advertisement no. 26/2023 (TRE-I) has been included in advertisement no. 27/2023 (TRE-II) and the selection of advertisement no. 27/2023 (TRE-II) has also been completed. It further states that after the selection process of advertisement no. 26/2023 (TRE-I) and advertisement no. 27/2023 (TRE-II) has been completed, the advertisement no. 22/2024 (TRE-III) has been published by the Commission on 07.02.2024 for appointment of School teachers.

45. However, contrary to what have been stated by the B.P.S.C., the Respondent no.4/Education Department in paragraph no. 9 of the supplementary counter affidavit has stated that the remaining vacancies of advertisement no. 26/2023 (TRE-I) on which there was no recommendation made by the Commission to the Education Department, has been carried forward in the advertisement no. 27/2023 (TRE-II), but the vacancies of primary school teacher which have arisen at the time of counseling/verification of the certificates was not carried



forward in advertisement no. 27/2023 (TRE-II), but the same has been carried forward in advertisement no. 22/2024 (TRE-III), which can be ascertained from the letter no. 350 dated 05.02.2024 issued by the Director, Secondary Education to all the District Education Officer in which there was specific instruction that the remaining vacancies of TRE-I and TRE-II are to be included in TRE-III.

46. The supplementary affidavit filed by the department/Respondent no.4, therefore, would go to show that insofar as vacancies that have arisen due to non-joining of the recommended candidates in advertisement no. 26/2023 (TRE-I) for not possessing the requisite qualification by the recommended candidates, was not carried forward in the advertisement no. 27/2023 (TRE-II), but the said vacancies have been carried forward in the advertisement no. 22 of 2024 (TRE-II), the selection of which will be commenced by the BPSC.

47. The letter dated 05.02.2024 by the Director, Secondary Education has been annexed as Annexure-R/1 of the supplementary counter affidavit filed by the respondent no.4 which is reproduced hereinbelow:-

"पत्राक: 11 / वि० 11-12/2024- 350

शिक्षा विभाग, बिहार, पटना

प्रेषक,

कन्हैया प्रसाद श्रीवास्तव,
निर्देशक, माध्यमिक शिक्षा।



सेवा मे

सभी जिला शिक्षा पदाधिकारी,
बिहार।

पटना, दिनांक

05/02/2024

विषय

प्राथमिक (1-5), मध्य (6-8), माध्यमिक (9-10) एवं उच्च माध्यमिक (11-12) विद्यालय में स्थानीय निकाय के शिक्षकों द्वारा बिहार लोक सेवा आयोग के विज्ञापन संख्या-26/2023 (प्रथम चरण TRE-1) एवं विज्ञापन संख्या-27/2023 (द्वितीय चरण TRE-2) के तहत नियुक्त होने के पश्चात् जिलावार एवं विषयवार रिक्ति को भेजने के संबंध में।

महाशय,

उपर्युक्त विषयक आप अवगत है कि बिहार राज्य विद्यालय अध्यापक (नियुक्ति स्थानान्तरण, अनुशासनिक कार्रवाई एवं सेवाशर्त) नियमावली, 2023 जो दिनांक-10.04.2023 की अधिसूचित हुई है, के परिप्रेक्ष्य में बिहार लोक सेवा आयोग द्वारा विज्ञापन संख्या-26/2023 (प्रथम चरण TRE-1) एवं विज्ञापन संख्या-27/2023 (द्वितीय चरण TRE-2) के तहत अनुशंसित अभ्यर्थियों की नियुक्ति की कार्रवाई की गई है। पुनः तृतीय चरण TRE-3 के तहत नियुक्ति की कार्रवाई की जानी है। विभागीय पत्रांक -271 दिनांक-29.01.2024 द्वारा सभी जिला शिक्षा पदाधिकारी से TRE-1 एवं TRE-2 के तहत नियुक्त विद्यालय अध्यापकों में स्थानीय निकाय शिक्षकों की संख्या की मांग की गई थी। आपके द्वारा उपलब्ध कराए गए रिक्ति प्रतिवेदन परिप्रेक्ष्य में उन पदों को विद्यालय अध्यापक के पद हेतु प्रत्यापित करने की कार्रवाई की जा रही है, जो अनुलग्नक-1, 2, 3 एवं 4 के रूप में संलग्न है। साथ ही, विज्ञापन संख्या-26/2023 (प्रथम चरण TRE-1) एवं विज्ञापन संख्या-27/2023 (द्वितीय चरण TRE-2) के तहत सभी जिलों को उपलब्ध कराए गए विद्यालय अध्यापक के पदों की संख्या, नियुक्त विद्यालय अध्यापकों की संख्या एवं रिक्त विद्यालय अध्यापकों की संख्या उपलब्ध है, के साथ अनुलग्नक 1, 2, 3 एवं 4 के रूप में संलग्न पदों पर बिहार लोक सेवा आयोग द्वारा TRE-3 के तहत नियुक्ति की कार्रवाई की जानी है, जिसमें आरक्षण समाशोधन की आवश्यकता है।

अतः आपको निदेशित किया जाता है कि अपने जिले के अन्तर्गत नियुक्त स्थानीय निकाय के शिक्षक जो TRE-1 एवं TRE-2 के तहत विद्यालय अध्यापक के पद पर नियुक्त हो गए हैं, जिनकी सूचना प्रपत्र 1, 2, 3 एवं 4 के रूप में संलग्न है के साथ विज्ञापन संख्या-26/2023 (प्रथम चरण TRE-1) एवं विज्ञापन संख्या-27/2023 (द्वितीय चरण TRE-2) के तहत रिक्त विद्यालय अध्यापकों को जोड़ते हुए नियमानुसार आरक्षण समाशोधन की कार्रवाई करते हुए अधोहस्ताक्षरी के ई-मेल आईडी० पर भेजना सुनिश्चित करेंगे।

इसे अति आवश्यक समझें।

अनुलग्नक यथोक्त ।

विश्वासभाजन

(कन्हैया प्रसाद श्रीवास्तव)
निदेशक, माध्यमिक शिक्षा।"

48. The english translated copy of the letter has also been made available by the learned Senior counsel for the petitioners across the board.

49. Perusal of letter dated 05.02.2024, written by the



Director, Secondary Education to all the District Education Officers, which letter is stated to be the basis on which the vacant posts of advertisement no. 26/2023 (TRE-I) that have arisen due to not filling up for not possessing the requisite qualification by the recommended candidates, no reference is found to have been made to the earlier communication between the department and the BPSC made on 24.10.2023 and 26.10.2023. The aforesaid letter dated 05.02.2024, issued by the Director, Secondary Education, Education Department, Bihar, Patna appears to be a letter to all the District Education Officers for sending the district wise and subject wise vacancies after appointment of teachers of local bodies in primary school, middle school and higher secondary school under advertisement no. 26/2023 (TRE-I) and advertisement no. 27/2023 (TRE-II).

50. What emerges from the rival pleadings of the contesting parties as noted above, are the following:

1. Advertisement No. 26 of 2023 was issued by the B.P.S.C. on 30.05.2023 for filling up of 67066 posts of primary teacher in General subject.
2. B.P.S.C. recommended only 62,653 candidates as against the 67066 advertised posts, vide result dated 18.10.2023.
3. During verification of the certificates of



62,653 recommended candidates by the department, several posts could not be filled up for two reasons: (i) candidates not possessing the required qualification and (ii) Candidates not joining the post because of their selection in other post(s) as well.

4. Three kinds of vacancies, therefore, have arisen:

(i) B.P.S.C. recommending lesser number of candidates i.e. 62,653 candidates as against the 67,066 posts advertised:

(ii) Recommended candidates not joining because of their selection in other post(s) as well.

(iii) Recommended candidates not appointed due to ineligibility.

5. (i) Insofar as, 1st category of vacancies is concerned, it has has been found to have carried forward in Advertisement No. 27 of 2023 and the recruitment has been completed;

(ii) Insofar as, 2nd category of vacancies is concerned, the B.P.S.C. has recommended 467 candidates by publishing a supplementary result dated 10.12.2023; and

(iii) Insofar as, the 3rd category of vacancies is concerned, B.P.S.C. has not published a supplementary result and the vacancies have been carried forward in the Advertisement No. 22 of 2024, the selection of which is yet to commence.



51. The supplementary result dated 10.12.2023 recommending 467 candidates for filling up the vacancies of 2nd category appears to have been published by the B.P.S.C. on the basis of policy decision taken by the department which was communicated to the B.P.S.C. vide the letter dated 24.10.2023 by the Director, Secondary Education Department.

52. The letter dated 24.10.2023 by the respondent no.4- the Director, Secondary Education Department is a communication made to the B.P.S.C. conveying the consent of the department for sending recommendations on the vacancies that have arisen under 2nd and 3rd categories referred to hereinabove.

53. When the department had taken a policy decision to fill up the vacancies that have arisen under the 2nd and 3rd categories referred to hereinabove and the decision of the department have been conveyed to the B.P.S.C. with a request to recommend more candidates by the letter of respondent no.4- the Director, Secondary Education, there ought to have been a supplementary result published by the B.P.S.C. for both the 2nd and 3rd categories of vacancies. On the contrary, what has been found in the instant case is that the B.P.S.C. has published a supplementary result only for the 2nd category of vacancies



despite the policy decision of the department that vacancies under 2nd and 3rd categories of the Advertisement No. 26 of 2023 be filled up.

54. No justifiable reason(s) are forthcoming from the respondents for selective publication of the supplementary results, contrary to the policy decision of the department.

55. Under the circumstances, the Court is of the considered view that the writ petition deserves to be allowed.

56. Accordingly, following directions are deemed appropriate:

(i) The respondent nos. 1, 2, 3 and 4 are directed to identify the number of vacancies that have arisen due to non-appointment of the candidates recommended by the B.P.S.C. as primary teacher for class I-V pursuant to the Advertisement No. 26/2023 for want of requisite qualifications and convey it to the respondent nos. 5, 6 and 7.

(ii) The respondent nos. 5, 6 and 7, on receipt of the above information, shall publish a supplementary result in order of merit from the selection held pursuant to Advertisement No. 26 of 2023, subject to the candidate(s) having secured the cut off marks and meets the cut off date of birth prescribed by the B.P.S.C.



57. Writ petition is allowed to the extent indicated above
and stand disposed off.

(Nani Tagia, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	10/07/2024
Uploading Date	18/07/2024
Transmission Date	N/A

