

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3115 of 2025

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1. Ramadhar Singh Son of Late Satyadeo Singh, resident of village-Govindpur, Police Station - Vikram in the district of Patna.
 2. Upendra Tiwary, Son of Late Ram Ekbal Tiwary, resident of Mohalla - Ram Nagar, Bengali Tola, Police Station- Jakkanpur in the district of Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The Divisional Commissioner, Patna Division, Patna.
5. The District Education Officer, Patna.
6. The District Program Officer (Establishment), Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Adv.
For the Respondent/s	:	Mr. Anirban Kundu, SC-24
		Mr. Rajat Kumar Tiwary, AC to SC-24

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 19-08-2025 Heard the parties.

2. The petitioners are aggrieved with the Memo No. 618 dated 14.01.2025, issued under the signature of the respondent no. 6, whereby the claim of the petitioners to grant the benefit of 3rd MACP with effect from 01.01.2009 has been rejected on the ground that the petitioners have not passed the departmental examination.

3. Mr. Sunil Kumar, learned Advocate for the petitioner submitted that earlier the petitioner had approached



this Court for grant of the benefit of 3rd MACP, in CWJC No. 13470 of 2017, which came to be disposed off on 29.05.2019, with a liberty to the petitioners to approach before the respondent no. 6. In pursuant, thereto, the petitioners submitted a detailed representation with a request to extend the benefit of MACP. However, it came to be rejected vide order contained in Memo No. 618 dated 14.01.2025, on the baseless and untenable ground that the petitioners have not passed the departmental examination, which order is impugned, herein.

4. A counter affidavit has been filed on behalf of the respondent no. 6. Taking shelter of Letter No. 641 dated 19.10.1981, issued by the Government of Bihar in the Department of Education, it is submitted that passing of the departmental examination is mandatory for ACP/MACP.

5. Having heard the learned Advocate for the respective parties and after going through the materials available on record, *prima facie*, the grounds which have been taken in the counter affidavit is found to be unsustainable, for the simple reason that the letter on which reliance has been placed is of 19.10.1981, much before coming into force of ACP Rules in the year 2003 and further MACP Rules in the year 2010.

6. The issue raised before this Court has already been



set at rest by a Full Bench decision of this Court in the case of ***Kamlanand Thakur & Ors. Vs. The State of Bihar & Ors.***, (CWJC No. 18727 of 2017 and its analogous cases), besides the decision rendered by the Apex Court in the case of ***Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.***, reported in ***[2023 (2) PLJR (SC) 423]***.

7. In pursuant to the mandate of the Apex Court, the Government of Bihar in the Department of Finance has also come out with a Letter bearing No. 4862 dated 29.04.2025, which also supports the claim of the petitioners.

8. Considering the aforesaid facts and the letter, the copy of which has been produced before this Court and kept on record, this Court finds the impugned order contained in Memo No. 618 dated 14.01.2025 is not sustainable and hereby set-aside.

9. The respondent no. 3 is directed to consider the claim of the petitioners for extending the benefit of 3rd MACP, in the light of the ruling of this Court as well as the Apex Court, noted hereinabove, and the letter of the Finance Department bearing No. 4862 dated 29.04.2025 and pass appropriate speaking order, preferably within a period of eight weeks, from the date of receipt/production of a copy of this order, in accordance with law.



10. The writ petition stands disposed off with the
aforesaid direction.

(Harish Kumar, J)

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