

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4854 of 2020

1. Amit Kumar Son of Sri Amarendra Kumar Sharma, Resident of Village-Dabchhu Korar, Police Station-Basantpur, District-Siwan, at present Primary Teacher (Basic Grade), Middle School, Jamsikri, Block-Siwan Sadar, District-Siwan.
2. Mukesh Kumar Singh, Son of Sri Awadh Bihari Singh, Resident of at Khurmabad, Police Station-Siwan (Muffasil), District-Siwan, at present Primary Teacher (Basic Grade), Middle School, Sarawe Mathiya, Block-Siwan Sadar, District-Siwan.
3. Surendra Kumar, Son of Sheo Ram, Resident of Chitragupt Nagar, Police Station-Siwan (Muffasil), District-Siwan, at present Primary Teacher (Graduate Grade), Middle School, Badka Manjha, Block-Mairwa, District-Siwan.
4. Arun Kumar Gupta, Son of Dhanpal Gupta, Resident of Village-Parariya, Police Station-Siwan (Muffasil), District-Siwan at present Primary Teacher (Basic Grade), Navin Primary School, Siyadi Harijan Tola, Block-Siwan Sadar, District-Siwan.
5. Arzu Perween, Daughter of Shami Ahmad, Resident of at Purana Kila, Police Station-Siwan, District-Siwan, at present Primary Teacher (Graduate Grade), Middle School, Bindusar Bujurg Block-Pachrukhi, District-Siwan.
6. Asia Prvin, Daughter of Aftab Alam, Resident of at near Darogaine Maszid, Sheikh Muhalla, Police Station-Siwan, District-Siwan, at present Primary Teacher (Graduate Grade) Middle School, Gothi (Kanuya), Block-Ziradei, District-Siwan.
7. Varun Kumar Giri, Son of Sharmanand Giri, Resident of Village-Dindyalpur, Police Station-G.B. Nagar (Tarwara), District-Siwan, at present-Primary Teacher (Basic Grade) Navin Primary School, Bhimpur, Block-Barharia, District-Siwan.
8. Satyendra Prasad, Son of Ram Ratan Prasad, Resident of Village-Surwaliya, Police Station-Barharia, District-Siwan, at present-Primary Teacher (Basic Grade) Navin Primary School, Aalapur, Block-Barharia, District-Siwan.
9. Biresh Kumar Manjhi, Son of Umashankar Manjhi, Resident of Village-Gopalpur, Police Station-Barharia, District-Siwan, at present-Primary Teacher (Basic Grade) Navin Primary School, Barsara, Block-Barharia, District-Siwan.
10. Shashi Shekhar, Son of Munilal Yadav, Resident of Village-Chandauli, Police Station-Goreakothi, District-Siwan, at present-Primary Teacher (Basic Grade) Middle School, Harpur, Block-Goreakothi, District-Siwan.
11. Riya Kumari, Daughter of Suresh Kumar Choudhary, Resident of at Mahadeva Mission, Police Station-Siwan (Muffasil), District-Siwan, at present-Primary Teacher (Basic Grade) Primary School, Kalinjra, Block-Siwan Sadar, District-Siwan.
12. Ranju Kumari, Daughter of Sri Shivrath Prasad, Resident of Village-Hanumanpuri Ke Mathiya, Police Station-Darauli, District-Siwan, at present-Primary Teacher (Basic Grade) Primary School, Ghatailla, Block-



Aandar, District-Siwan.

13. Amarjeet Kumar Yadav, Son of Mushafir Yadav, Resident of Village-Hathawa, Police Station-Hussainganj, District-Siwan, at present-Primary Teacher (Basic Grade) N.P.S. Rakhat Tola Panchayat-Kharsanda, Block-Hussainganj, District-Siwan.
14. Kumari Anshu, Daughter of Ashok Kumar Chaturvedi, Resident of at Anand Nagar, Police Station-Siwan Town, District-Siwan, at present-Primary Teacher (Basic Grade) Middle School Karnpura Tole, Basospali, Block-Siwan Sadar, District-Siwan.
15. Shyam Sundar Das, Son of Nand Jee Ram, Resident of Village-Bhagar, Police Station-Siwan, District-Siwan, at present-Primary Teacher (Graduate Grade) Middle School, Parariya, Block-Siwan Sadar, District-Siwan.
16. Pinky Kumari, Daughter of Shree Durga Sah, Resident of At Shardhanand Bazr, Police Station-Siwan (Town), District-Siwan, at present-Primary Teacher (Graduate Grade) Middle School, Basopali, Block-Siwan Sadar, District-Siwan.
17. Afsana Parween, Daughter of Abdul Rab, Resident of at Purana Quila, Police Station-Siwan (Town), District-Siwan, at present-Primary Teacher (Graduate Grade) Middle School, Mahual Urdu, Block-Hussainganj, District-Siwan.
18. Asma Parveen, Daughter of Munna Hazam, Resident of at Village-Tetaria, Police Station-Hussainganj, District-Siwan, at present-Primary Teacher (Basic Grade) Middle School, Luhasi Khurd, Block-Siwan Sadar, District-Siwan.
19. Amritesh Kumar, Son of Keshav Dubey, Resident of Village-Bhimpur, Police Station-Barharia, District-Siwan, at present-Primary Teacher (Graduate Grade) Middle School, Dharthawalia, Block-Pachrukhi, District-Siwan.
20. Kumari Neha Soni, Daughter of Rajeshwar Deo Upadhya, Resident of Village-Sisai, Police Station-Barauli, District-Gopalganj, at present Primary Teacher (Basic Grade), N.P.S. Dhoda Tola, Block-Barauli, District-Gopalganj.
21. Kumari Swati, Daughter of Surendra Kumar Prasad, Resident of Village-Tarwa Parasiya, Police Station-Guthani, District-Siwan, at present-Primary Teacher (Basic Grade) Middle School, Baghara, Block-Siwan Sadar, District-Siwan.
22. Amit Kumar, Son of Ravindra Sah, Resident of Village-Thepahan Purwanchal, Police Station-Ziradei, at present Primary Teacher (Basic Grade), Middle School, Nauwapali, Block-Siwan Sadar, District-Siwan.
23. Krishna Kumar Prasad, Son of Dudhnath Prasad, Resident of Village-Mairwadham, Police Station-Mairwa, District-Siwan at present Primary Teacher (Basic Grade), Government Primary School, Maidaniya, Block-Mairwa, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.



2. The Department of Education, Primary Education through its Principal Secretary, Government of Bihar, Patna.
3. The Director, the Primary Education, Government of Bihar, Patna.
4. The Director, Research and Training Department, Government of Bihar, Patna.
5. The Bihar School Examination Board, Patna through its Chairman, Patna.
6. The Department of Finance, Government of Bihar, Patna through its Secretary.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Raghav Prasad, Advocate.
		Mr. Alok Kumar, Advocate.
For the State	:	Mr.Madhaw Prasad Yadaw, GP-23.

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT**

Date : 16-01-2025

Heard Mr. Raghav Prasad, learned counsel along with Mr. Alok Kumar, learned counsel appearing on behalf of the petitioners and Mr. Madhaw Prasad Yadaw, learned GP-23 for the State.

2. The petitioners in paragraph no. 1 of the present writ petition have sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

"1. That this, application is being filed for the issuance of writ/ writs, order/ orders, command/ commands, direction/ directions and for the issuance of writ in the nature of mandamus directing the Respondent Authorities to grant benefit of the pay band of trained teachers from the date of completion of training of the Primary TET passed untrained teachers appointed under 3rd Primary Teacher Employment 2012 with a direction to the Respondent Chief Secretary, Government of Bihar to consider and frame out the scheme for payment of trained Teacher Scale from the date of relieving from the training institution drifting the date of grant of trained teacher scale from the date of passing of the examination conducted by Bihar School Examination Board, Respondent, petitioners further pray for a direction to the Respondent no. 3, 4 and 6



to grant and assure the pay bank of trained teacher scale to the members of petitioners Teacher Association and other petitioners from the date of relieve/release from training institute after completion of 2 years training an restrained not to act upon to release or grant the trained teacher scale to these trained teachers from the date of result as per notification, petitioners further pray for a direction to competent Respondent Authorities to follow the direction taken by the Education Department in Sanchika No. 11/B1-08/2013-1530 Patna dated 11 August 2015 in view of Decision taken in Column 2.8 by which it has been taken in decision regarding trained teacher who had completed 2 years training meaning thereby 2 years in service are entitled for pay band and trained teacher scale, petitioners further pray for a direction to Respondent no. 2 and 4 to abide by the Principle of service jurisprudence in cadre of promotion and seniority not effected by a common examination of 3 Sessions i.e. 2014-16, 2015-17 and 2016-18 whose Examination was held from 27.10.2018 onwards and result were published analogously published on 19.01.2019 in view of no fault of the member of petitioners Association who were initially selected and appointed as untrained primary teachers, petitioners further pray to restrained the Respondent Authorities not to act in accordance to their whim in view of decision taken by them vide letter no. 3/M- 2-5-PE.PU-01-99/3805/LI.0(2), Government of Bihar, Department of Finance, Patna dated 25.06.1999 issued under signature of Special Secretary, Government of Bihar with a direction to follow the Letter dated 25.06.1999 in totality for interest of the employee for grant of salary in the effect of grant in light of decision rendered by this Hon'ble court in CWJC No. 16165 of 2019 the petitioners are entitled for the salary of trained teachers scale from the date of relieving from the training institute, petitioners further pray for grant and release the arrear of salary after grant of trained teacher salary (with grade pay) with effect from the date of relieve from the training institute after adding the additional (difference amount) of trained Teachers scale and these petitioners be granted of any other relief/relives for which these found entitled in the facts and circumstances of this case be also given."

3. Learned counsel appearing on behalf of the petitioners informs that the grievance of the petitioners is covered by the judgment passed in C.W.J.C. No. 7938 of 2020 (Manoj Kumar & Ors. Vs. The State of Bihar & Ors). Learned



counsel further informs that similarly situated teachers had approached this Court by filing C.W.J.C. No. 16165 of 2019 (Kishor Kumar and Others v. The State of Bihar and Others), in which, *inter alia*, following order has been passed:

“If there is no dispute that the petitioners were sent for training in academic sessions 2013-15 and the course was completed in May, 2017, there is no reason to deny the benefit of trained scale to these petitioners with effect from May, 2017 when the course was completed as the petitioners have completed their training but for the reason best known to the respondents the examination was not held in time and the result was published belatedly along with the junior batch.

Considering the aforesaid, the writ petition is disposed of with a direction to the Director, Primary Education to consider the case of the petitioners and grant the benefit from the date of completion of training to the petitioners as the lapses on the part of the respondents cannot be a ground to deny the benefit of trained pay scale. It is now well settled that one cannot take advantage of his own wrong in defeating the genuine claim. Chief Justice Chhagla of Bombay High Court in the case of All India Groundnut Syndicate Ltd. Vs. Commissioner of Income Tax, Bombay City: AIR 1954 Bom. 232 has occasion to settle the principle on the similar line there is judgment of the Apex Court in the case of State of Maharashtra Vs. Jagannath Achyut Karandikar: AIR 1989 SC 1133. The respondents have to take decision granting benefit of trained scale to the petitioners with effect from the date of completion of their training i.e. May, 2017. Necessary decision in this regard with all consequential monetary benefits must be taken by the Director, Secondary Education within a period of sixty days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

4. Based on the said decision, learned counsel has sought mandamus for granting similar relief to the petitioner considering that L.P.A. No. 502 of 2021 (The State of Bihar & Ors. Vs. Abdus Samad) has been filed by the State against the



order dated 11.04.2018 passed in C.W.J.C. No. 7322 of 2017 which was withdrawn by the State vide order dated 08.07.2022 and M.J.C. No. 1704 of 2023 was preferred for modification of the order dated 08.07.2022 which has also been dismissed vide order dated 06.10.2023. The petitioner seeks similar relief as has been directed by this Court to the petitioners of C.W.J.C. No. 7322 of 2017.

5. *Per contra*, learned counsel appearing on behalf of the State informs that the order passed in C.W.J.C. No. 7938 of 2020 and order passed in C.W.J.C. No. 16165 of 2019 will not be applicable in the case of the petitioners in view of the fact that there is no delay in taking examination of the petitioners for the session 2015-17, for which immediately examination was held without delay on 27.10.2018 and result has already been published on 19.01.2019.

6. Heard the parties.

7. Having heard the rival submissions made on behalf of the parties, as well as, the statement made in Para-13 to 17 of the counter affidavit in which respondents have relied on a Division Bench Judgment passed in L.P.A. No. 1699 of 2013 (Kranti Kanak & Ors. Vs. The State of Bihar & Ors.), in which after discussing the case of the several petitioners, the



Division Bench has finally concluded in Para-13, which is, *inter alia*, as follows:

“13. In order to save injustice and protect the rights of the petitioners/appellants, we would, thus, hold that the judgment of the learned Single Judge would continue to operate. The petitioners/appellants would be entitled to Matric trained scale from the day they completed the two years module. In other words, they would be deemed to be Matric trained teachers from the time the results were declared in respect of the two years course of IGNOU subject to their clearing six months course as later prescribed. They would not be treated as Matric trained either for the purposes of seniority or for financial benefits from the date they finally completed the six months course in the year, 2014 because all that delay was caused by the State in which petitioners/appellants have no role to play.”

8. In the present case, the petitioners had taken training for the session 2015-17 and completed in May 2017 and after much delay their examination was conducted on 27.10.2018 and result was published on 19.01.2019. Hence, the petitioners would be entitled to matric trained scale from the date they completed two years module. The authority may consider the case of the petitioners to grant similar relief.

9. The writ petition stands disposed of.

(Purnendu Singh, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	22.01.2025
Transmission Date	N.A.

