

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6683 of 2024

Parivartankari Prarambhik Sikshak Sangh Bihar Regd. Office at Raksha (South), Via Kanti, P.S. Karja District- Muzaffarpur represented through its State President Banshi Dhar Brajwasi S/o Nandkishore Sahani R/o- Village Raksha (South), P.S.- Karja District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director, Primary Education, Education Department, Govt. of Bihar, New Secretariat, Patna.
4. The Director, Secondary Education, Education Department, Govt. of Bihar, New Secretariat, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Manoj, Advocate
For the State	:	Mr. P.K. Shahi, AG
		Mr. Vikash Kumar, AC to AG
For the BPSC	:	Mr. Zaki Haider, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 13-02-2025

The petitioner namely Parivartankari Prarambhik



Sikshak Sangh has approached this Court for declaration of Rule 3(2) and 3(3) of the Bihar Elementary School Headmaster/Teacher Rules, 2024 (for short 'the Rules of 2024') to be arbitrary and unconstitutional, as it does not follow the mandate of the Right of Children to Free and Compulsory Education Act, 2009 (for short the 'RTE Act, 2009'), as also for quashing the follow up Advertisement No. 25 of 2024 published by the Bihar Public Service Commission (respondent no.5) for holding examination for Headmaster/Teacher for their appointment.

2. The major contention of the petitioner is that with the promulgation of the Rules in question, two separate categories have been created of Headmasters; one being the Head-Teachers of Elementary Schools and the other as the Headmasters of Higher Secondary Schools.

3. Prima facie, this argument does not appeal to us for the reason that there is a valid classification between Head-Teacher who heads an Elementary School



and the Headmaster who would man a Higher Secondary School.

4. Nothing has been shown to us which would make any provision, much less 3(2) and 3(3) of the Rules of 2024 appear to be against the mandate of the RTE Act, 2009. The Rules in question only provide a more comprehensive mode of recruitment of teachers with higher standards with emphasis laid on improving the quality of teachers.

5. Rule 3 of the Rules of 2024 clearly provides that there shall be a separate cadre for Head-Teachers of Government Elementary Schools.

6. Sub-Clause 2 of Rule 3 provides that the appointment of Head-Teachers would be made through an examination conducted by the Commission from amongst the teachers as defined in Rule 2(ix) of the Rules of 2024. However, the teachers covered under the Bihar Government Elementary School Teachers (Transfer, Disciplinary Proceedings and Promotion) Rules, 2018 will



not be required to appear in this examination and they would continue to become Head-Teachers through promotion, subject to eligibility and availability of vacancies. Sub-Clause 3 of Rule 3 further provides that any teacher as defined under Rule 2(ix) can appear in the examination conducted by the Commission, provided he has minimum of eight years of teaching experience in Government Elementary School and is 58 years or less on 1st of August in the year of recruitment.

7. A bare look at the provision contained in Rule 2(ix) of the Rules of 2024 would indicate that teachers would mean all such teachers including the members of the petitioner/Organization, who were appointed under the earlier Rules between 2006 and 2020 and those appointed under the Bihar State School Teachers (Appointment, Transfer, Disciplinary Action and Conditions of Service) Rules, 2023. This, therefore, gives a uniform treatment to the teachers who were appointed between the period 2006 to 2020 or under the 2023



Rules. The Rules of 2024, therefore, provide an opportunity to the teachers to participate in the selection process conducted for the Head-Teachers, for which no fault could be found in the Rules.

8. The State Government is under an obligation to enhance the standards of education in the State of Bihar and the promulgation of the Rules of 2024 is a step in that direction.

9. The competence to frame such Rules has not been questioned.

10. We have not been able to find out any anomaly in the Rules, for it to be called to be in violation of the RTE Act, 2009.

11. It appears that the objection has been raised primarily because the members of the petitioner/Organisation would now be required to appear in the examination and nothing more.

12. No good ground has been made out by the petitioner for holding the Rules of 2024 to be *ultra vires*



or against the RTE Act, 2009.

13. There is no merit in this writ petition.

14. The writ petition is dismissed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

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CAV DATE	N/A
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