

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3525 of 2021

1. Omprakash Singh Son of Sri Kailash Rai Resident of Village- Sher (Hajiyapur Khar), Ward No. 26, Police Station- Sidhwaliya, District- Gopalganj, At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Vrindavan, Anchal- Thawe, District- Gopalganj.
2. Prabhat Ranjan Son of Late Ramesh Chand Rai Resident of Village- Rasauti, Police Station- Kateya, District- Gopalganj, At present posted and working as an Assistant Teacher in Govt. Middle School Rasauti, Anchal- Kateya, District- Gopalganj.
3. Vikrama Sharma Son Late Mohit Prasad Resident of Village- Jamsara, Police Station- Tareya Sugan, District- Kushi Nagar (Uttar Pradesh), At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Barawa Vrit, Anchal- Kuchaikot, District- Gopalganj.
4. Md. Hidaytullah Son of Late Ghamsan Ali Resident of Village- Saisai, Police Station- Bhore, District- Gopalganj, At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Khadhai, Anchal- Bhore, District- Gopalganj.
5. Dhananjay Kumar Mishra Son of Late Surendra Kumar Mishra Resident of Village- Belaura, Police Station- Kateya, District- Gopalganj, At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Padrauna, Anchal- Bhore, District- Gopalganj.
6. Rambabu Sah Son of Late Baidhnath Sah Resident of Village- Nabiganj, Police Station- Baraharia, District- Siwan, At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Bigahi Jagdish, Anchal- Hathua, District- Gopalganj.
7. Upendra Kumar Singh Son of Late Ramanand Rai Resident of Village- Madipur, Police Station- Fulwaria, District- Gopalganj, At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Sangrampur Raimal, Anchal- Fulwaria, District- Gopalganj.
8. Nand Kishore Singh Son of Late Harihar Singh Resident of Village- Trilokpur, Police Station- Uchkagaon, District- Gopalganj, At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Matihani Matho, Anchal- Hathua, District- Gopalganj.
9. Ram Sagar Rai Son of Late Baikunth Rai Resident of Village- Koat Narahwa, Police Station- Gopalpur, District- Gopalganj, At present posted and working as an Assistant Teacher in Govt. Primary School Goraiya Khal, Anchal- Kuchaikot, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary -cum- the Principal Secretary Education Department, Govt. of Bihar, Patna.
3. The Principal Secretary Finance Department, Government of Bihar, Patna.
4. The Director Primary Education, Bihar, Patna.



5. The Joint Secretary Education Department, Bihar, Patna.
6. The District Education Officer Gopalganj.
7. The District Programme Officer (Establishment) Gopalganj.
8. The Block Education Officer Thawe, District- Gopalganj.
9. The Block Education Officer Kateya, District- Gopalganj.
10. The Block Education Officer Kuchaikot, District- Gopalganj.
11. The Block Education Officer Bhore, District- Gopalganj.
12. The Block Education Officer Hathua, District- Gopalganj.
13. The Block Education Officer Fulwaria, District- Gopalganj.
14. The District Accounts Officer Gopalganj.
15. The District Treasury Officer Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the State : SC-28

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 24-03-2025

Heard Mr. Umesh Kumar Mishra, learned counsel
appearing on behalf of the petitioners and learned SC-28 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. For issuance of an appropriate writ in the nature of certiorari for quashing the part of the memo no. 432 dated 20.04.2020 issued under the signature of the Director Primary Education, Bihar, Patna to all the District Education Officers, by which, only such teachers have been given the benefits of senior pay scale after completion of 12 years of the service from the date of appointment, who have been appointed prior to 31.12.1995 even though being untrained whereas the petitioners have been appointed after 31.12.1995 on compassionate grounds and they jointed in their respective schools and they have already been provided senior pay scale after completion of 12 years of service from the date of appointment in compliance of memo no. 289 dated



22.02.2019 issued under the signature of the Joint Secretary, Education Department, Bihar, Patna and the same is being maintained in their service book, by which, fixation has already been done and, hence, the petitioners are entitled for senior pay scale after completion of 12 years of service, as the ratio decided by this Hon'ble High Court in CWJC No. 6139/2007 (Ram Ashish Tiwary and Others vs. The State of Bihar and Others) disposed of on 31.03.2011 and the same has been affirmed in L.P.A. No. 756/2015 (State of Bihar vs. Ram Ashish Tiwary vs. The State of Bihar and Others) and the same has also been affirmed by the Hon'ble Apex Court vide order dated 27.08.2018 passed in S.L.P. (Civil) Diary No. 28313/2018 (The State of Bihar and Others vs. Ram Ashish Tiwary and Others) and the same has taken its finality.

II. For issuance of an appropriate writ in the nature of certiorari for quashing memo no. 996 dated 23.05.2020 issued under the signature of the District Programme Officer (Establishment), Gopalganj, which has been issued in compliance of memo no. 432 dated 20.04.2020 issued under the signature of the Director, Primary Education, Bihar, Patna, by which, there is direction for one time recovery of the differences of salary from the teachers including petitioners, who have been appointed after 31.12.1995, without appreciating the earlier memo i.e. memo no. 289 dated 22.02.2019 issued under the signature of the Joint Secretary, Education Department, Bihar, Patna.

III. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to implement/follow the memo no. 289 dated 22.02.2019 issued under the signature of the Joint Secretary, Education Department, Bihar, Patna as well as memo no. 1160 dated 03.09.2019 issued under the signature of the Director Primary Education, Bihar, Patna, which has been issued in compliance of order passed by this Hon'ble High Court in CWJC No. 6139/2007 Ram Ashis Tiwary & Ors Vs. The State of Bihar & Ors and the same has been affirmed upto the Hon'ble Apex Court.

IV. For issuance of an appropriate writ as an alternative prayer for commanding and directing the respondent authorities concerned to provide the same and similar benefits to the petitioners under Bihar State Litigation Policy, 2011 under Rule 4(c), as per the direction of the Hon'ble High Court, Patna passed in the case of similarly situated teachers, order dated 31.03.2011 passed in CWJC No. 6139/2007 Ram Ashis Tiwary & Ors Vs. The State of Bihar & Ors.

V. For issuance of any other writ/writs, order/orders, direction/directions for which the petitioner would be entitled in the facts and circumstances of the present case."

3. Learned counsel appearing on behalf of the



petitioners submits that the case of the petitioners is squarely covered by the judgment passed in LPA No. 756 of 2015 arising out of C.W.J.C. No. 6139 of 2007 dated 16.08.2017. Hence, the petitioners are entitled to the similar relief as per the State Litigation Policy under Clause 4(c)(1). Learned counsel further submitted that the petitioners have already represented before the Principal Secretary, Education Department, Bihar, and the same is still pending. Clause 4(c)(1) of the State Litigation Policy reads as follows:-

“4.C Covered Matters: 4.C (1). A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/applicant-employee/citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.

4. Considering the submissions made on behalf of the petitioners, the the order contained in Memo No. 432 dated 20.04.2020 is required to be interfered for reconsideration.

5. The Additional Chief Secretary, Education Department, Government of Bihar, is directed to dispose of the representation filed on behalf of the petitioner, after verifying whether the same benefit can be extended to the petitioner as



granted to the petitioners *vide* order dated 31.03.2011 passed in C.W.J.C. No. 6139 of 2007 within a period of six weeks by passing a reasoned order after reconsidering the case of the petitioners without being prejudiced by the order of the Director Primary Education, contained in Memo No. 432 dated 20.04.2020.

6. It is made clear that the Additional Chief Secretary, Education Department, may also collect the records in respect of the cases which are covered by the judgment of this Court and take a decision by directing the authorities concerned to act in accordance with the provision of Bihar Litigation Policy, 2011 at their own level.

7. Accordingly, the instant petition stands disposed of in light of the order passed in C.W.J.C. No. 6139 of 2007 dated 31.03.2011 and L.P.A. No. 756 of 2015 dated 16.08.2017 and the State Litigation Policy as quoted above.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	26.03.2025
Transmission Date	N/A

