

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16393 of 2021

1. Kishori Sharan Prasad Sinha, Son of Late Sri Krishna Prasad Resident of Moh - Azamnagar, Ward No. 06, P.O. - Lalbagh, P.S. - L.N.M.U. Campus, District- Darbhanga, PIN - 846004.
2. Surendra Pandey Son of Late Dhaneshwar Pandey Resident of Village - Shive Singhpur, P.O. - Malhi Patti, Bahadurpur, P.S. - Ashok Paper Mill, Via - Laheriasarai, District- Darbhanga, PIN 846002.
3. Rajesh Kumar Jha Son of Sri Mahendra Jha Resident of Village - Tektar, P.O. - Madhupur, P.S. - Kamtaul, District- Darbhanga. PIN- 847306.
4. Md Mashkoo Alam Son of Late Abdul Shakur Resident of Village - Majhari, P.O. Hariyahi, P.S. - Nirmali, District- Supaul. PIN - 847452.
5. Manish Kumar Jha Son of Late Banke Bihari Jha Resident of Village - Kasraur, P.O. - Kasraur, P.S. - Ghanshyampur, District- Darbhanga. PIN - 847427.
6. Rajeev Kumar Chaudhary Son of Late Mahesh Prasad Chaudhary Resident of Village - Pokhram, P.O. - Pokhram, P.S. - Biraul, District- Darbhanga. PIN- 847203.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Deputy Secretary, Education Department, Government of Bihar, Patna.
5. The District Magistrate, Darbhanga.
6. The District Education Officer, Darbhanga.
7. The District Programme Officer (Establishment), Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar, Advocate.
Mr. Pranav Kumar, Advocate.
For the Respondent/s : AC to SC-28.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 01-05-2025 Heard learned counsel appearing on behalf of the
petitioners and learned counsel for the respondents.

2. The petitioners in paragraph no. 1 of the present



writ petition have sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“(i) For issuance of a writ of certiorari for quashing of the Notification issued by State Govt. in the Education Department, Bihar, Patna under memo no.888 dated 27.08.2021 (Annexure-7) whereby and where under vide clause 5(iv) it has been decided that in the matter of compassionate appointment, in the cases in which the deceased employee (Headmaster/Teaching/Non Teaching) has died before 01.07.2006 (i.e. the date of commencement of Niyojit Teachers Appointment Rule' 2006) and on account of that the dependents of such deceased employee have been recommended by the District Compassionate Committee after 01.07.2006 for appointment, then such dependents on the basis of having required qualification of Intermediate Trained and passing the TET examination, be appointed in the basic scale of Niyojit teachers by the concerned employment unit in terms of provisions of Niyojit Teachers Appointment Rule' 2006.

(ii) For issuance of a direction to the respondents not to oust the petitioners from the post of Assistant teachers of regular pay scale as the petitioners are the dependents of deceased employee who had died prior to 01.07.2006 and petitioners have been appointed on the post of regular teachers on the basis of recommendation of District Compassionate Committee made after 01.07.2006 in terms of memo no.38 dated 12.01.2018 issued by Education Department, Bihar, Patna and the cases of petitioners are squarely covered by the judgment delivered by Apex Court dated 03.04.2017 in Civil Appeal No. 4776-4777 of 2017 Mukesh & Ors Vs State of Bihar & Ors reported in (2017) 5 SCC 383 and the recent judgment delivered by a Division Bench of this Hon'ble court in the case of Chandra Shekhar Azad & Ors Vs State of Bihar & Ors reported in 2020 (2) PLJR 703.

(iii) For issuance of any other writ/writs, order/orders, direction/directions which the Hon'ble Court may deem fit and proper.”

3. Learned counsel appearing on behalf of the petitioners submitted that the case of the petitioners, who are the ward of the deceased teachers who had died in harness prior to 01.07.2006, have been recommended by the District Compassionate Committee after 01.07.2006 for appointment in



the basic scale of Niyojit teachers by the concerned employment unit in terms of provisions of Niyojit Teachers Appointment Rules, 2006. The petitioners aggrieved by the said action of the State Government had preferred C.W.J.C. Nos. 6723 of 2018, 15852 of 2015, 6258 of 2019 and 6495 of 2019, which were disposed of by Annexure-1 series. This Court in light of the judgment passed in L.P.A. No. 1472 of 2015 (The State of Bihar & Ors. Vs. Rhituraj Saraubh and Anr.) directed the respondents to grant similar relief to the petitioners within a period of four weeks thereupon.

4. I find that in respect of the petitioners, the State Government has taken corrective measures and the petitioners are being paid regular pay scale which was applicable to the father of the petitioners at the time of their death.

5. In view of the admitted position, the proposed action in future in light of the Memo No. 888 dated 27.08.2021 (Annexure-7) can only be said to be misconceived.

6. Once the State has taken corrective measures, the petitioners cannot be penalized. In this background, no action can be taken contrary to the law laid down by the Apex Court in the case of **Mukesh and Another Vs. State of Bihar & Ors.**, reported in **(2017) 5 SCC 383** and **Secretary to Government**



Department of Education (Primary) and Others Vs. Bheemesh Alias Bheemappa, reported in **(2021) 20 SCC 707** and the judgments passed by the Division Bench of this Court in **L.P.A. No. 1472 of 2015 (The State of Bihar & Ors. Vs. Rhituraj Saraubh and Anr.)** and **C.W.J.C. No. 15626 of 2019 (Chandra Shekhar Azad & Ors. Vs. The State of Bihar & Ors.)**.

7. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

