

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14307 of 2023

1. Jayant Kumar Son of Late Ram Babu Kunwar, Resident of Village- Dhekahan, P.O.- Dhekahan, P.S.- Dhekahan, District-East Champaran.
2. Baikunth Bihari Son of Late Balbhadra Sharma, Resident of Village- Pali, P.O.- Naubatpur, P.S.- Naubatpur, District-Patna.
3. Archana Kumari, Daughter of Shri Krishna Sharma, Resident of Village- Sheikhpora, P.S.- Shastrinagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Joint Secretary, Education Department, Government of Bihar, Patna
3. The Special Director, Secondary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Vaishali at Hajipur.
5. The District Programme Officer (Establishment), Vaishali at Hajipur.
6. The Chairman, Bihar Sanskrit Shiksha Board, Patna.
7. The Secretary, Bihar Sanskrit Shiksha Board, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar, Adv. Mr. Alok Kumar, Adv.
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw (Gp23)
For the Board	:	Mr. S.S. Sundaram, Adv. Mr. Aman Kumar, Adv. Mr. Ankit, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

7 19-11-2025 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

“That this is an application on



behalf of petitioners for issuance of a writ of mandamus directing the respondent to pay the salary grants in regular scale and arrears thereof at par with pre 15.02.2011 appointees in 531 Non-Govt. recognized (Aided) Sanskrit schools who were appointed in between the period 15.02.2011 to 31.08.2013, as decided by the State Govt. vide Order bearing memo no.1134 dated 18.07.2023 in compliance of order dated 27.03.2019 passed in CWJC No.985 of 2015 by a Division Bench of this Hon'ble court because the petitioners were also appointed in between the period 15.02.2011 to 31.08.2013 in Kaushalya Sanskrit High School, Mahua, Vaishali which comes under 531 Non-Govt recognized (Aided) Sanskrit schools category and the appointment of petitioners have been approved by the Bihar Sanskrit Shiksha Board w.e.f. the date of their appointment and petitioners further pray for issuance of any other order/orders, direction/directions, writ/writs which the Hon'ble court may deem fit and proper.”

3. Learned counsel for the petitioner submits that the petitioners were appointed as an Assistant Teachers of Kaushalya Sanskrit High School, Mahua, Vaishali under 531 Non-Govt. Recognized (Aided) Sanskrit schools category. Learned counsel submits that the petitioners were issued appointment letters in March, 2013. Thereafter, the Bihar



Sanskrit Shiksha Board vide office order no. 2965 dated 22.05.2025 has accorded approval to the appointment of the petitioners from the date of their appointment. Subsequently the the Education Department, Government of Bihar came up with a resolution dated 31.08.2013 wherein it was decided that the teachers of Non-Govt. Recognized (Aided) Sanskrit Schools who have been appointed after February, 2011 shall be entitled to a fixed pay only. A Division Bench of this Hon'ble Court vide order dated 27.03.2019 in C.W.J.C. No. 985 of 2015 and other analogous cases has considered the resolution dated 15.02.2011 and 31.08.2013 and held that the appointed persons falling under the 531 schools are entitled for regular pay scale admissible to the sanctioned posts in respect of Madarsa and schools that should recognized and aided prior to 15.02.2011. Learned counsel for the petitioner submits that pursuant to the above said judgments some teachers were also given the benefit vide memo no. 1134 dated 18.07.2023 (Annexure- P/7). Learned counsel submits that the petitioners are also similarly placed and therefore the respondent authorities may be directed to treat the petitioners on par with the teachers who were appointed to the Madarsas and other schools and a direction may be given to pay the benefits as directed by this Court in C.W.J.C. No. 985 of



2015 dated 27.03.2019.

4. Learned counsel appearing on behalf of the respondent State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that against the order dated 27.03.2019 passed in C.W.J.C. No. 985 of 2015, a review has been filed and the same is pending adjudication. Learned counsel submits that in view of the pendency of the review application made by the State, this court may not pass any orders in favour of the petitioners for the present.

5. Learned counsel for the petitioner in reply has submitted that the Civil Review Application filed against the judgment dated 27.03.2019 passed in C.W.J.C. No. 985 of 2015 and other analogous cases was dismissed for non-prosecution. Thereafter a restoration application has been filed and the same is pending. Further, learned counsel has stated that a Coordinate Bench of this Hon'ble Court in C.W.J.C. No. 7012 of 2023 dated 19.11.2024 duly taking note of the above mentioned facts has directed the respondents authority to give the benefits of the orders passed in C.W.J.C. No. 985 of 2015 dated 27.03.2019 in respect of the writ petitioners therein. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present writ



petition.

6. Admittedly, in the present case the petitioners were appointed to Kaushalya Sanskrit High Schools between the period of 12.02.2011 to 31.08.2013, their schools come under the 531 Non-Govt. Recognized (Aided) Sanskrit schools category and subsequently their appointments were also approved by the Bihar Sanskrit Shiksha Board with effect from the date of their appointment.

7. This Hon'ble Court in C.W.J.C. No. 985 of 2015 order dated 27.03.2019 has held as under:

“6. The resolution nowhere indicates of the applicability of fixed pay-scales in respect of recognized and aided Madarsas including the 1128 Madarsas referred to therein that were already recognized prior to 15.2.2011 and its teachers who were getting regular pay-scales. The said resolution was, therefore, not made applicable in respect of teachers appointed in the recognized Madarsas that were already on the grant-in-aid list prior to 15th February, 2011. There is no dispute that the petitioners have been appointed in such Madarsas which were already recognized and were already in the grant-in-aid list where they were getting the regular pay-scale. It is correct that their appointment has been made after 15th of February, 2011, but the fact remains that these appointments are prior to the impugned



resolution dated 31st August, 2013 in Madarsas that were recognized and aided prior to 15.2.2011.

7. Consequently, the petitioners belong to those class of teachers who were appointed against sanctioned posts in recognized Madarsas that were already on the grant-in-aid list prior to the resolution dated 15th February, 2011.

11. In our considered opinion, the resolution dated 15th of February, 2011, therefore, because of the aforesaid distinction as explained above was not at all applicable in the case of the petitioners who were already appointed and approved against sanctioned posts from the grant-in-aid that was being received by such Madarsas even prior to 15.02.2011. Clause 7 categorically applies to such Madarsas to be found eligible amongst 2459 Madarsas with which the petitioners had no concern.

13. The petitioners are Teachers of such Madarsas and Schools that stood recognized and aided prior to 15.02.2011. The impugned Resolution dated 31.8.2013 quoted hereinabove in Clause 6 converts the pay-scales of those Teachers who were appointed in such schools after 15.02.2011 with retrospective effect. This was therefore impermissible as the matter under consideration on 15.2.2011 was of giving a fixed pay-scale to those Madarsas who had not been recognized up to 15.02.2011, and



were found eligible after inquiry in terms of the said order of the Government. The 15.02.2011 Resolution therefore did not contemplate reduction of salary of those who were getting a regular pay-scale in recognized and aided Madarsas against posts sanctioned prior to 15.02.2011 which formed a different class. The petitioners were deprived of the regular pay-scale for bringing about an equality in respect of institutions which were not subject matter of the Resolution dated 15.02.2011. The 15.02.2011 resolution does not stipulate any restriction of regular pay-scales. The State Government may have been under some compulsion to reflect equality in its actions as they agreed to give a fixed pay-scale to the Madarsas that were recognized after 15.02.2011 as those Teachers may have demanded a regular pay-scale, but the same could not have been made a ground for deprivation of the pay-scale admissible to sanctioned posts in respect of the Madarsas and Schools that stood recognized and aided prior to 15.02.2011. The said benefits could not have been withdrawn retrospectively as the petitioners even though appointed after 15.02.2011 but before 31.08.2013 were occupying posts that were recognized and aided even prior to 15.02.2011 with regular pay-scale. The posts had not been abolished nor their pay-scales had been reduced when the petitioners were appointed which was admittedly prior to 31.08.2013. The shifting and adjustment of



financial burden adopted by this discriminatory process therefore is an irrational exercise and is both arbitrary and discriminatory. If the State Government chose to give a lesser pay-scale to Madarsas which were unrecognized and unaided but were recognized after 15.02.2011, the same formed a separate class and it cannot be clubbed together for the purpose of revising the benefits of the petitioners who were in their own right entitled and were already getting a regular pay-scale prior to 31.08.2013. The impugned Resolution dated 31.08.2013, therefore, cannot apply in the case of those who have been appointed prior to 31st August, 2013. For all the aforesaid reasons, the impugned action and Resolution to the aforesaid effect converting the pay-scale of the petitioners cannot be sustained and is, hereby, quashed insofar as it relates to the petitioners.

14. We, accordingly, allow the writ petition and declare that the petitioners will continue to get the same salary that they were getting prior to the impugned resolution together with all arrears on that account that shall be released forthwith within a period of three months from today.”

8. A Coordinate Bench of this Hon’ble Court in C.W.J.C. No. 7012 of 2023 dated 19.11.2024 has held as under:

“6. The petitioner having been appointed in the year 2013 , in view of the



judgment of Division Bench of this Court in the case of Imran Alam (supra), nothing remains in the instant writ application. As held therein the resolution dated 31.8.2013 would not be applicable in the case of the petitioner.

7. In case the petitioner has been paid fixed pay as contemplated in the resolution dated 31.8.2013, the consequential difference of salary shall be paid to the petitioner by the respondent concerned within a period of four months from the date of receipt of a copy of this order.”

9. Further it is to be noted that this Court in C.W.J.C. No. 15299 of 2015 and other analogous cases dated 27.03.2019 has applied the judgment passed in C.W.J.C. No. 985 of 2015 dated 27.03.2019 and extended the same benefits to the teachers who were appointed in the Sanskrit Schools.

10. Having regard to the above facts and circumstances and also the judgments referred supra, the writ petition is allowed. The respondent authorities are directed to see that the difference of salary of the petitioners are calculated and paid. They shall get the same salary as that of the regular Lecturers appointed prior to 15.02.2011 in the said sanskrit schools. The authority shall endeavour to pay the entire arrears of salary as expeditiously as possible preferably within a period



of three months from the date of receipt of the copy of this
order.

(A. Abhishek Reddy , J)

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