

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12840 of 2021

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Pushpa Teresa Murmu Daughter of Bepari Murmu Resident of Village-
Mahuguri, P.O.- Chuapani, P.S.- Bounsi, Chilkara, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director Secondary Education, Government of Bihar, Patna.
3. The District Magistrate District- Bhagalpur.
4. The District Education Officer District- Bhagalpur.
5. The District Programme Officer (Establishment) District- Bhagalpur.
6. The Diocesan Educational Society, Christ Church compound, District- Bhagalpur.
7. The Managing Committee Christ Church Girls High School, through its Secretary, P.S.- Kotwali, District- Bhagalpur.
8. The Head Mistress, Christ Church Girls High School, P.S.- Kotwali, District- Bhagalpur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 20016 of 2019

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1. Prashant Joys Son of Prakash Ghosh, Assistant Teacher, Commerce, C.M.S. High School, Adampur, Bhagalpur.
 2. Nutan Rani, W/o Shiv Shankar Singh, Assistant Teacher, Sanskrit, C.M.S. High School, Adampur, Bhagalpur.
 3. Sangita Sharma, W/o Kameshwar Prasad Sharma, Assistant Teacher, Sanskrit, C.M.S. High School, Adampur, Bhagalpur.
 4. Saurav Kumar Suman, Son of Kant Lal Madal Assistant Teacher, Fine Art, C.M.S. High School, Adampur, Bhagalpur.
 5. Abhishek Tudu, Son of Theodar Mansingh Tudu, Assistant Teacher, Mathematics, C.M.S. High School, Adampur, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, New Secretariat, Bihar, Patna.
2. The Director(Secondary), Education, Bihar, Patna.
3. The District Education Officer, Bhagalpur.
4. The District Programme Officer (Establishment), Bhagalpur.
5. The Managing Committee, C.M.S. High School, Adampur, Bhagalpur, P.S.



Adampur, Town and District- Bhagalpur,through its Secretary.

6. The Head Master, C.M.S. High School, Adampur, Bhagalpur, P.S. Adampur, Town and District- Bhagalpur.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 20707 of 2019

1. Madhav Kumar Jha S/o Late Jagdish Jha, Assistant Teacher, Mathematics, Christ Church Girls High School, Bhagalpur.
2. Sameer Soren, S/o Late Seth Soren, Assistant Teacher, Geography, Christ Church Girls High School, Bhagalpur.
3. Shweta Kashyap, D/o Mithilesh Kumar Jha, Assistant Teacher, English , Christ Church Girls High School, Bhagalpur.
4. Abhilasha Kumari, D/o Brahmdev Prasad Singh, Assistant Teacher, Sanskrit , Christ Church Girls High School, Bhagalpur.
5. Shailly Hembram, D/o Timothy Hembram, Assistant Teacher, Hindi , Christ Church Girls High School, Bhagalpur.
6. Nirojini Soren, D/o Late John Soren, Assistant Teacher, History , Christ Church Girls High School, Bhagalpur.
7. Sunita Murmu, D/o Late Barnabas Murmu, Assistant Teacher, Civics , Christ Church Girls High School, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
2. The Director, (Secondary Education), Bihar, Patna.
3. The District Education Officer, Bhagalpur.
4. The District Programme Officer (Establishment), Bhagalpur.
5. The Managing Committee, Christ Church Girls High School, Bhagalpur, P.S.- Kotwali, Town and District- Bhagalpur, through its Secretary.
6. The Head Mistress, Christ Church Girls High School, Bhagalpur, P.S. Kotwali, Town and District- Bhagalpur.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 12840 of 2021)

For the Petitioner/s : Mr. Abhishek Kumar Pandey, Advocate.
Mr. Satyam, Advocate.

For the Respondent/s : Mr.Madanjeet Kumar, GP-20.

(In Civil Writ Jurisdiction Case No. 20016 of 2019)



For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate.
For the Respondent/s : Mr. Kumar Kamal Nayan, AC to SC-18.
For Res. Nos. 5&6 : Mr. Sanjeet Kumar, Advocate.
Mr. Piyush Anand, Advocate.

(In Civil Writ Jurisdiction Case No. 20707 of 2019)

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate.
For the State : Mr. Hitesh Suman, AC to SC-13.
For Res. Nos. 5&6 : Mr. Sanjeet Kumar, Advocate.
Mr. Piyush Anand, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

8 24-04-2025 Heard learned counsel appearing on behalf of the
petitioners and learned counsel for the respondents.

2. As the issue involved in all the three writ petitions
are similar, they are being disposed of by a common order.

3. Learned counsel appearing on behalf of the
petitioners, at the outset, submitted that the law in respect of
‘Power of Regulation’ has now been settled by the Apex Court
in the case of **T.M.A. Pai Foundation v. State of Karnataka,**
reported in (2002) 8 SCC 481, wherein an eleven-Judge Bench
of the Apex Court formulated certain points in fact to reconsider
its earlier decision in **Ahmedabad St. Xavier's College Society**
v. State of Gujarat, (1974) 1 SCC 717, and also **Unni**
Krishnan, J.P. v. State of A.P., (1993) 4 SCC 111, regarding
the “right of the minority institution including administration of
the student and imparting education vis-à-vis the right of



administration of the non-minority student”. In the said case, very important points arose as follows :

“450. ... Q. 5. (c) Whether the statutory provisions which regulate the facets of administration like control over educational agencies, control over governing bodies, conditions of affiliation including recognition/withdrawal thereof, and appointment of staff, employees, teachers and principals including their service conditions and regulation of fees, etc. would interfere with the right of administration of minorities?

A. So far as the statutory provisions regulating the facets of administration are concerned, in case of an unaided minority educational institution, the regulatory measure of control should be minimal and the conditions of recognition as well as conditions of affiliation to a university or board have to be complied with, but in the matter of day-to-day management, like appointment of staff, teaching and non-teaching and administrative control over them, the management should have the freedom and there should not be any external controlling agency. However, a rational procedure for selection of teaching staff and for taking disciplinary action has to be evolved by the management itself. For redressing the grievances of such employees who are subjected to punishment or termination from



service, a mechanism will have to be evolved and in our opinion, appropriate tribunals could be constituted, and till then, such tribunal could be presided over by a judicial officer of the rank of District Judge. The State or other controlling authorities, however, can always prescribe the minimum qualifications, salaries, experience and other conditions bearing on the merit of an individual for being appointed as a teacher of an educational institution.

Regulations can be framed governing service conditions for teaching and other staff for whom aid is provided by the State without interfering with overall administrative control of management over the staff, government/university representative can be associated with the Selection Committee and the guidelines for selection can be laid down. In regard to unaided minority educational institutions such regulations, which will ensure a check over unfair practices and general welfare of teachers could be framed.”

Recently, the law in respect of ‘Power of Regulation’ has been settled in the case of **Christian Medical College Vellore Association Vs. Union of India and Others**, reported in **(2020) 8 SCC 705**.

4. It is made clear that the Apex Court in the said



judgment has held that such Regulation is to facilitate and impart good education to the children.

5. Learned counsel appearing on behalf of the petitioners submitted that in view of the fact that during the pendency of the present writ petitions, majority of the petitioners have passed STET/TET examination held by the Bihar School Examination Board, the petitioners, from their respective date they have qualified STET/TET, they seek to avail remedy before the Director, Secondary Education, so that the relief prayed for in the present writ petition can be entertained by the Director at his own level considering the qualification of the petitioners in which they were found successful.

6. Petitioners are also aggrieved for non-payment of their salary. They may represent before the Managing Committee for consideration of their case and obtaining approval in accordance with the provision of 1981 Act.

7. It is made clear that Annexure-1 series in all the writ petitions is made inoperative in respect of those teachers who have passed STET/TET during the pendency of the writ petition. Their approval, in that circumstances, is required to be considered by the Director, Secondary Education in accordance



with the provision of Section 18(3) of 1981 Act.

8. The writ petitions stand disposed of.

(Purnendu Singh, J)

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