

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19591 of 2024

1. Bablu Choudhary Son of Rohit Choudhary, Resident of Village- Narayanpur, Post Office- Kerwar, Police Station- Jaipur, District- Banka, Pin Code- 813106.
2. Raushan Kumar, son of Pardeshi Prasad, Resident of Village- Kawaiya, Post Office- Kawaiya, Police Station- Jharauxhar, District- East Champaran, Pin Code- 845303.
3. Ankit Singh, son of Om Prakash Singh, Resident of Village- Takia, Post Office- Takia, Police Station- Lar, District- Deoria, Uttar Pradesh- 274602.
4. Anukansha Dixit, Daughter of Sudhir Dixit, Resident of Village- Moh Kot Bewar Grameen, Office-Bewar, Post Police Station- Bewar, District- Mainpuri, Uttar Pradesh- 205301.
5. Garima Tripathi, Daughter of Chandrabhushan Tripathi, resident of Village- Nakdiha, Post Office- Siswa Pandey, Police Station- Surauli, District- Deoria, Uttar Pradesh- 274001.
6. Jagriti Tripathi, Daughter of Mahendra Nath Tripathi, Resident of Village- Bhaisahi, Post Office- Bhaisahi, Police Station- Mahuli, District- Sant Kabir Nagar, Uttar Pradesh- 272176.
7. Shikha Pandey, Daughter of Ishwar Sharan Pandey, Resident of Village- Chamakani Karbala, Post Office-Krishna Nagar, Police Station- Sadar Bazar, District-Shahjahanpur, Uttar Pradesh- 242001.
8. KM Neha, Daughter of Chandra Prakash, Resident of Village- Sundarpur, Post Office- Pilkhar, Police Station- Friends Colony, District- Etawah, Uttar Pradesh- 206001.
9. Pooja Mishra, Daughter of Akhilesh Kumar Mishra, Resident of Village- Pandit Ka Purwa, Post Office-Shahab Ganj, Police Station- Lilapur, District- Pratapghar, Uttar Pradesh- 230144.
10. Jyotsna Kumari, Daughter of Uday Singh, Resident of Village- Kshiriya Nagar, Post Office- Aurangabad, Police Station- Aurangabad, District- Aurangabad, Pin Code- 824101.
11. Neha Modanwal, Daughter of Dilip Modanwal, Resident of Village- Sirathu, Post Office- Sirathu, Police Station- Saini, District- Kaushambi, Uttar Pradesh-212217.
12. Shefali Patel, Daughter of Vijay Kumar Patel, Resident of Village- 568 KHA/428 Geeta Palli, Post Office- Chandan Nagar, Police Station- Krishna Nagar, District- Lucknow, Uttar Pradesh- 226005.
13. Sudhakar Thakur, son of Sant Thakur, Resident of Village- Narahwa Shukla, Post Office- Narahwa Shukla, Police Station- Gopalpur, District- Gopalganj, Pin Code- 841503.
14. Balikaran Agrahari, son of Tungnath Agrahari, Resident of Village- Tharauli, Post Office- Tetari Bazar, Police Station- Siddharth Nagar, District- Sidharth Nagar, Uttar Pradesh- 272207.



... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Old Secretariat, Bailey Road, Patna.
3. The Secretary, Education Department, Government of Bihar, Old Secretariat, Bailey Road, Patna.
4. The Director Secondary Education, Education Department, Government of Bihar, Old Secretariat, Bailey Road, Patna.
5. The Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
6. The Chairman, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
7. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Munna Kumar Upadhyay, Advocate
For BPSC	:	Mrs. Parul Prasad, Advocate
		Mr.Aditya Anand, Advocate
For the State	:	Mr.Kumar Pankaj, AC to SC 5

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 09-01-2025

Heard the matter in ‘Virtual-Hybrid Mode’.

2. Heard Mr. Munna Kumar Upadhyay, learned counsel appearing on behalf of the petitioners; Ms. Parul Prasad along with Mr. Aditya Anand, learned counsel for the BPSC and Mr. Kumar Pankaj, learned AC to SC 5 for the State.

3. 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 writ in the nature of mandamus for commanding the respondent nos. 1, 2, 3 and 4 (The State of Bihar) to identify the number of



vacancy that have been arisen due to non-appointment/not joining of the candidates recommended by the Bihar Public Service Commission for appointment as Primary Teacher for Class 1 to 5 pursuant to the Advertisement No.26 of 2023 for want of requisite qualification and convey it to the respondent nos. 5, 6 and 7 with respect of the petitioners after examining the merit from merit list, which was prepared by the Commission.

(ii) For issuance of writ in the nature of mandamus for direction to the Bihar Public Service Commission (Respondent Nos. 5, 6 and 7), on receipt of the above information shall publish a supplementary result in order of Revised merit list for teachers in Primary School for Class 1 to 5 against Advertisement No.26 of 2023 dated 30.05.2023.

(iii) For issuance of writ in the nature of mandamus commanding the respondents to consequently lower down the cut-off date of birth in all the categories in the supplementary/revised merit list for teachers in Primary School for Class 1 to 5 against Advertisement No.26 of 2023 dated 30.05.2023 and published the revised Merit List accordingly with respect of petitioners.

(iv) For issuance of writ in the nature of mandamus commanding the respondents to not merge/include the left over vacancies of Advertisement No.26 of 2023 dated 30.05.2023 with the future vacancies of Teacher Recruitment Examination.

(v) For issuance of writ in the nature of mandamus commanding the respondents to furnish the details of vacancies occurred in Primary Teacher for Class 1 to 5 due to the candidates, rejection of successful candidates in want of CTET and D.El. Ed. Certificate and for any other reason.

(vi) For any other relief/reliefs admissible under the law in the light of factual profile of this case in the interest of justice.”



4. Learned counsel appearing on behalf of the petitioners submits that the similarly situated 101 candidates, pursuant to the Advertisement No.26 of 2023 had come before this Court in **CWJC No.1151 of 2024 (Dhirendra Kumar & Ors. vs. The State of Bihar & Ors.)**, which was disposed of vide judgment dated 18.07.2024 wherein direction was given for publication of supplementary result in order of merit for the selection pursuant to Advertisement No.26 of 2023, subject to the candidate(s) having secured the cut-off marks and meets the cut-off date of birth prescribed by the Bihar Public Service Commission (hereinafter to be referred as the 'BPSC').

5. Learned counsel for the petitioners has further sought relief(s) to lower down the cut-off date of birth in all the categories in the Supplementary/Revised Merit List for Teachers in Primary School for Class 1 to 5, in view of the Advertisement No.26 of 2023 dated 30.05.2023 and he submits that the date of birth must be lowered down and then the revised merit list should be published.

6. *Per contra* Ms. Parul Prasad, learned counsel appearing through virtual mode on behalf of the Bihar Public Service Commission submits that the relief(s), as sought for by the petitioners, is not sustainable in the eye of law as the



selection process has already been completed and against the judgment passed in ***Dhirendra Kumar*** (supra) case, the State Government has preferred ***LPA No.1030 of 2024 (The State of Bihar & Ors. vs. Dhirendra Kumar)*** and the said LPA has been directed to be posted on 16.01.2025, vide order dated 08.01.2025.

7. Learned counsel for the BPSC further clarified that another relief sought to lower down the cut-off the date of birth in all the categories in the supplementary revised merit list for Teachers, after the selection process having been completed, can not be carried out being not in accordance with law and the writ petition being devoid of merits is fit to be disposed of .

8. Heard the parties.

9. Having considered the rival submissions made on behalf of the parties, as well as, taking into consideration the relief(s), as prayed for on behalf of the petitioners particularly the relief(s) as sought for in Sub Para no.(iii) of Paragraph No.1 and in the background of the facts of the present writ petition, I find it apt to re-produce *inter alia* following main directions passed in Paragraph No.56 in ***Dhirendra Kumar*** (supra) case, which is reproduced hereinafter as follows :

“56. Accordingly, following directions are deemed appropriate :



(i) The respondent nos. 1, 2, 3 and 4 are directed to identify the number of vacancies that have arisen due to non-appointment of the candidates recommended by the BPSC as primary teacher for class I-V pursuant to the Advertisement No.26/2023 for want of requisite qualifications and convey it to the respondent Nos. 5, 6 and 7.

(ii) The respondent nos. 5, 6 and 7, on receipt of the above information, shall publish a supplementary result in order of merit from the selection held pursuant to Advertisement No.26 of 2023, subject to the candidate(s) having secured the cut off marks and meets the cut off date of birth prescribed by the BPSC.”

10. The above judgment dated 18.07.2024 passed in CWJC No.1151 of 2024 is the subject matter before the Division Bench of this Court in LPA No.1030 of 2024.

11. However, in the present case, the petitioners have also sought the age prescribed in the Advertisement No.26 of 2023 dated 30.05.2023 is required to be lowered down as their age has expired. CWJC No.1151 of 2024 was filed by 101 candidates, who also had applied for their selection. The matter is pending before the Division Bench, the selection process has been completed and the result has been published.

12. In above view, I do not want to interfere in any manner. The petitioners have liberty to approach the concerned authority for redressal of their grievance after the final result of



LPA No.1030 of 2024. The writ petition is accordingly dismissed.

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2025
Transmission Date	NA

