

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1823 of 2024

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1. Md. Maqusood Alam Son of Md. Mahmood Alam, Resident of Village-Sobhanpur Katoria, Police Station- Amarpur in the district of Banka.
 2. Md. Ismail Ansari, Son of Md. Alamad Hussain @ Alamat Ansari, Resident of Village- Daura, Police Station- Banka in the district of Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Joint Secretary, Department of Education, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director Research and Training, Government of Bihar, Patna.
6. The District Education Officer, Supaul, Bihar.
7. The District Program Officer (Estb.), Supaul, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Adv. Mr. Aditya Kumar Pandey, Adv.
For the State	:	Mr. Kumar Manish, SC-5 Mr. Madan Mohan, AC to SC-5

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 15-02-2025 Heard learned counsel for the parties.

2. The petitioners were appointed as Assistant Teacher in Middle School by virtue of their names appearing in the list prepared by the Hon'ble Justice S.K. Chattopadhyay (Retired Committee) to fill up 34,540 vacancies for Teachers and they have been allowed to join their respective posts. Later on, their services have been terminated on the ground that they did not possess a valid training certificate.

3. Learned counsel for the petitioners has placed



before this Court a recent judgment of Hon'ble Division Bench of this Court in L.P.A. No. 1254 of 2016 (arising out of C.W.J.C. No. 16580 of 2014) and other analogous appeals in which a challenge to the different judgments of the learned writ court at the instance of the State of Bihar came to be considered by the Hon'ble Division Bench.

4. Learned counsel for the State submits that there is delay in approaching the petitioners before this Court and in this regard he relied upon a judgment of the Apex Court in the case of **Mrinmoy Maity Vs. Chhanda Koley & Ors.** passed in **Civil Appeal No. 5027 of 2024** (Arising out of Special Leave Petition (Civil) No. 30152 of 2018) in which in para-9, it is stated as follows:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This



Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers Under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.”

5. Considering the facts and circumstances of the case and the materials available on record, it appears that the petitioners’ case is squarely covered by the judgment passed in L.P.A. No. 1254 of 2016 on 28.02.2023. Accordingly, this application is allowed and the matter is remitted back to the Director, Primary Education, Government of Bihar, Patna (respondent no. 4) to consider the case of the petitioners within a period of one month after affording opportunity of personal hearing or through their counsel by passing a reasoned and a speaking order, in accordance with law from the date of receipt/production of a copy of this order.

(Anjani Kumar Sharan, J)

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