

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25098 of 2018

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Anita Kumari W/o Dr. Arun Kumar R/o- Mohalla-Kankarbagh, Lohiya Nagar,
District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Director Secondary Education Govt. of Bihar Patna.
3. District Education Officer Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binoy Kumar Singh, Advocate
		Ms. Sweta Raj, Advocate
For the Respondent/s	:	Smt.Binita Singh -SC28

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

4 07-07-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The instant writ petition has been filed for the
following reliefs:-

*(i) Whether the respondents are
legal and justified in not giving seniority on
the post of headmistress?*

*(ii) Whether the respondents are
legal and justified in not paying the pay
scale of an headmistress from the date of her
juniors are enjoying?*

*(iii) Whether the whole action of
the respondents are otherwise bad in law
and it is fit to be rejected?*

3. Learned counsel for the petitioner by relying upon
the observations made by Division Bench submits that the issues



with regard to qualification of seven years of teaching experience in a government run school has already been addressed by the Division Bench still for the same and similar reasons the benefits, which accrues to this petitioner on account of the petitioner having discharged the duties of headmistress from the date of her juniors are enjoying, the benefits of the said post has been withheld, while the issues raised have already been considered by the Division Bench and there is an observation that the Hon'ble Court did not propose to go through all such issues at belated stage as the same has been raised without any supportive materials. For better perusal the observation made by the Hon'ble Division Bench is as re-produced hereunder:-

From perusal of the order passed in M.J.C. No.1581 of 1998 it is quite apparent that this Hon'ble Court has merely said that the claim of the petitioner i.e. Dr. Sudha Kumari shall be considered in the light of the order disposing of the letters patent appeal filed by the State against the order of the learned Single Judge. The claim of the State of Bihar and the intervenor that Anita Kumari (respondent no.1 in the L.P.A.) does not possess the as a requisite qualification for appointment Headmistress is a new fact and that was not pleaded by the State of Bihar or for that matter by Dr. Sudha Kumari along with other persons then they had moved this Court in the earlier writ application and in fact it has been raised for the first time in the contempt application filed by Dr. Sudha Kumari. Even at that stage, the first show cause filed by Sri Anil Kumar Srivastava, Director, Secondary Education, Govt.



of Bihar, Patna that there was no such pleadings and averment and it is only in the second show cause the State has come out with such a plea and that too in a vague manner. The scope of letters patent appeal does not envisage that new fact which has been pleaded by the appellant of this case or by the intervenor, should be examined or or by the gone into by this Court. The State has raised these questions in the memo of appeal without giving any foundational facts, much less any documents to support their stand aforesaid. Likewise in the counter-affidavit filed in M.J.C. No.1581 of 1998, which is Annexure-X/4 to the intervention petition, it has merely been stated that Anita Kumari does not have seven any years minimum teaching experience from any recognised school without supporting their stance by any document or enquiry conducted to ascertain the truth. The question that the qualification of seven years teaching experience in a Government run school is a debatable question and we do not propose to go into that at this belated stage and more so, because of the fact that there are no materials before us to support the contention that Anita Kumari did not have the requisite qualifications. [emphasis supplied]

4. It has next been submitted by the counsel for the petitioner that the order passed by Hon'ble Division Bench was put to challenge before Hon'ble Apex Court in S.L.P. No. 20962 of 2007 which was also dismissed and therefore, the issues with regard to this petitioner not having qualification of seven years of teaching experience in a government run school is not available to the respondents, to deny the benefits for want of such qualification, which issue has already been adjudicated in earlier



round of litigation.

5. Considering the fact that the issues of qualification have already been addressed and same has been indicated, this Court direct the respondents to take a final decision with regard to the benefits which accrues to this petitioner on account of the duties of Headmistress being discharged from the date of her appointment having been made with effect from 17.04.1996 and necessary decisions in this regard be taken within a period of eight weeks from the date of representation and all such benefits which is at par with the others, will be made available to this petitioner within the time so allowed.

6. Accordingly, the writ petition stands disposed of.

(Ajit Kumar, J)

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