

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.3668 of 2016**

**In**  
**Letters Patent Appeal No.1589 of 2009**

- 
- 
1. Dilip Kumar Son of Late Girjinandan Prasad, resident of M.I.G. - 190, Mohalla- Hanuman Nagar, P.S.- Patrakar Nagar, District- Patna Bihar.
  2. Balram Kumar Son of Late Smt. Girja Kumari Yadav and Tanik Prasad Yadav, pemanently resident of Village- Kanhaipur, P.S.- Mokamah, Dist.- Patna, presently resides at Pallavi Nagar Colony, Mohalla- Gulzarbagh, P.S. Alamganj, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Sanjay Kumar Agrawal, son of not known to the petitioner, District Magistrate, Patna being the Chairman of the District Compassionate Committee, Patna.
2. Mahesh Prasad Singh son of not known to the petitioner, District Superintendent of Education now redesignated D.P.O. (Estb), Patna.
3. Medo Das, son of not known to the petitioner, District Education Officer, Patna.

... .. Opposite Party/s

---

---

**Appearance :**

|                            |   |                                                                            |
|----------------------------|---|----------------------------------------------------------------------------|
| For the Petitioner/s       | : | Mr. Manish Kumar, Advocate<br>Mr. Nand Lal Kumar Singh, Advocate           |
| For the Opposite Party/s : |   | Mr. Ashutosh Ranjan Pandey, AAG-15<br>Mr. Vinay Kumar Mishra, AC to AAG-15 |

---

---

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE RITESH KUMAR**  
**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)**

7      16-01-2026                      From a perusal of the records, it appears that the present contempt application was directed to be listed after disposal of SLP(C) No. 20321 of 2016, as is evident from the order dated 29.03.2018. The records further reveal that the aforesaid Special Leave Petition was disposed of by the Hon'ble Supreme Court in March, 2025. Consequently, the present contempt application has now been listed for hearing.



2. A brief statement of facts, relevant for consideration of the present application is that the petitioner had earlier preferred CWJC No. 6147 of 2009, which was disposed of by the writ Court vide order dated 15.05.2009, wherein the following observations were made:-

*“The grievance is that the recommendation for appointment has been made on the post of Teacher but appointment has been provided on the post of Nagar Shikshak under Patna Municipal Corporation and appointment letters issued (in so far as CWJC No. 6147 of 2009 is concerned petitioner no. 2 has been recommended by the committee for appointment on the post of Nagar Shikshak itself). The post of Nagar Shikshak was not a post under the State Government carrying regular pay scale but a post with fixed emoluments. The appointment itself was in teeth of the letter of the Personnel and Administrative Reforms Department dated 17.10.2008 that such compassionate appointment had to be made only in services under the State Government and not on the post of Nagar Shikshak which were not government posts.*

*The writ applications are disposed with the direction that in pursuance of the recommendations made in their favour by the District Compassionate Appointment Committee their appointments be made strictly in accordance with the government instruction dated 17.10.2008.”*



3. Thereafter, petitioner filed MJC No. 2594 of 2009, which was dismissed with following observations:-

*“Heard learned counsel for the petitioners and learned counsel for the opposite parties.*

*The Writ Court had directed consideration for compassionate appointment of the petitioners on a government post other than that of a Nagar Shikshak which was not a post under the State Government in view of the direction of the Personnel and Administrative Reforms Department dated 17.10.2008 in pursuance of the recommendation for compassionate appointment by the concerned committee.*

*Learned counsel for the petitioners submits that the respondents continued to flout the order by not providing appointment to the petitioners on a government post. The petitioners are admittedly working as a Nagar Shikshak.*

*Learned counsel for the State rightly points out that appoint on compassionate grounds is an exception to the normal mode of appointment prescribed under Article 14 by an advertisement followed by a process of selection based on comparative merit. Therefore, any appointment on compassionate grounds has to be strictly in terms of the policy decision regulating the same. It is not in controversy that the petitioners have been provided compassionate appointment. They, however, seek an appointment of the nature of their choice. Learned counsel for the State has placed*



*before this Court a Full Bench decision in L.P.A. No.321/10 on the issue in which it has been noticed that the Circular dated 17.10.2008 has been withdrawn by letter No.2955 dated 22.6.2009 and in which it has been stipulated that persons like the petitioners can be appointed on compassionate grounds on the post of Teachers against available vacancies. The Full Bench has then concluded at paragraph-24 that the Circular dated 17.10.2008 having been superseded by the Circular dated 22.6.2009, no relief of the nature sought could have been granted by the writ Court.*

*The contempt application is dismissed.”*

4. Aggrieved by the order dated 15.05.2009, the respondent-State preferred LPA No. 1589 of 2009, which was dismissed by order dated 30.03.2015. Against the said order, the State preferred Special Leave Petition No. 20321 of 2016 before the Hon'ble Supreme Court, which was also dismissed by the Hon'ble Supreme Court in March, 2025.

5. At this stage, learned counsel for the petitioners seeks permission to withdraw the present contempt application with liberty to file a fresh contempt application for alleged non-compliance of the order dated 15.05.2009 passed in CWJC No. 6147 of 2009 by the writ Court.

6. Considering the submissions made and the facts of the case, the permission as prayed for is granted.



7. Accordingly, the present contempt application stands disposed of.

8. Pending application(s), if any, shall stand disposed of.

**(Sudhir Singh, J)**

**(Ritesh Kumar, J)**

Anushka/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

