

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 58 of 2024

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| 1. Md. Abdul Jakim
2. Md. Salim Hossain
3. Abdul Haque
4. Md. Sahidur Rahman
5. Mahendra Kumar Pal
6. Indrajit Mandal
7. Rajesh Kumar Tiwary
8. Md Gulam Mustafa Ansari
9. Md. Safiullah
10. Ravindra Kumar
11. Mustaque Alam Ansari
12. Mohan Rabidas | Petitioners
Versus
1. The State of Jharkhand through the Principal Secretary, Department of School Education and Literacy, Government of Jharkhand, Ranchi
2. The Director, Primary Education (Directorate of Education), Department of School Education and Literacy, Government of Jharkhand, Ranchi
3. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Ranchi
4. The District Superintendent of Education, Ranchi
5. The Deputy Commissioner -cum- Chairman, District Education Establishment Committee, Hazaribag
6. The District Superintendent of Education, Hazaribag
7. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Koderma
8. The District Superintendent of Education, Koderma
9. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, East Singhbhum, Jamshedpur
10. The District Superintendent of Education, East Singhbhum, Jamshedpur
11. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Dhanbad
12. The District Superintendent of Education, Dhanbad
13. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Chatra
14. The District Superintendent of Education, Chatra
15. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Sahebganj
16. The District Superintendent of Education, Sahebganj
17. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Giridih
18. The District Superintendent of Education, Giridih
19. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Pakur |
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20. The District Superintendent of Education, Pakur
 21. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Godda
 22. The District Superintendent of Education, Godda
 23. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Jamtara
 24. The District Superintendent of Education, Jamtara
 25. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Bokaro
 26. The District Superintendent of Education, Bokaro
 27. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Dumka
 28. The District Superintendent of Education, Dumka
 29. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Seraikella
 30. The District Superintendent of Education, Seraikella
 31. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Deoghar
 32. The District Superintendent of Education, Deoghar
 33. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Ramgarh
 34. The District Superintendent of Education, Ramgarh

.... ... Respondents

With

W.P.(S) No. 73 of 2024

1. Sujit Kumar Sinha
2. Rajkumar Ghosh
3. Akhileshwar Bhagat
4. Santosh Kumar Yadav
5. Abdul Rakib
6. Md. Hasib Ansari
7. Deyamay Saha
8. Rajamuddin Ansari
9. Sushant Kumar Mukherjee
10. Pankaj Kumar Thakur
11. Md. Kabirul Islam
12. Ratan Lal Pramanik
13. Jitendra Kumar
14. Uttam Kumar Pramanik

15. Md. Abrar Hussain Petitioners

Versus

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 32. The District Superintendent of Education, Deoghar
 33. The Deputy Commissioner-cum-Chairman, District Education Establishment Committee, Ramgarh
 34. The District Superintendent of Education, Ramgarh

.... ... Respondents

With

W.P.(S) No. 131 of 2024

1. Anamul Islam
2. Md. Jabir Alam Ansari

3. Tripti Kumar Dutta
 4. Ismat Ara
 5. Md. Mokhlesur Rahman
 6. Md. Mohaymen ... Petitioners

Versus

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2. The Director, Primary Education (Directorate of Education), Department of School Education and Literacy, Government of Jharkhand, Ranchi
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 32. The District Superintendent of Education, Deoghar
 33. The Deputy Commissioner -cum- Chairman, District Education Establishment Committee, Ramgarh
 34. The District Superintendent of Education, Ramgarh

... ... Respondents

With

W.P.(S) No. 193 of 2024

1. Lalbeir Rana
2. Chandar Ram
3. Purneshwar Ram
4. Md. Tanwirul Islam

... ... Petitioners

Versus

1. The State of Jharkhand through the Principal Secretary, Department of School Education and Literacy, Government of Jharkhand, Ranchi
2. The Director, Primary Education (Directorate of Education), Department of School Education and Literacy, Government of Jharkhand, Ranchi
3. The Deputy Commissioner-cum- Chairman, District Education Establishment Committee, Hazaribagh
4. The District Superintendent of Education, Hazaribagh
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6. The District Superintendent of Education, Koderma
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 26. The District Superintendent of Education, Deoghar
 27. The Deputy Commissioner -cum- Chairman, District Education Establishment Committee, Ramgarh
 28. The District Superintendent of Education, Ramgarh

.... ... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner(s) : M/s. Shubham Mishra, Kumar Pawan,
 Ashutosh Anand No. 2 & Harsh Chandra, Advocates
 [in W.P.(S) Nos. 58, 73 & 131 of 2024]
 Mr. Ranjit Kumar, Advocate
 [in W.P.(S) No. 193 of 2024]
 For the Resp. State : Mr. Ashok Kumar Singh, AC to SC(L&C)-III
 [in W.P.(S) No. 58 of 2024]
 Mr. Aman Kumar, A.C to G.P.-I
 [in W.P.(S) No. 73 of 2024]
 Mr. Shubham Gautam, A.C to A.A.G.-V
 [in W.P.(S) No. 131 of 2024]
 Mr. Vishal Kumar Rai, A.C to G.A.-IV
 [in W.P.(S) No. 193 of 2024]

Order No. 02

Dated: 18.01.2024

Learned counsel for the petitioners of W.P.(S) No. 193 of 2024 is permitted to make suitable correction in the name of the petitioner no. 1 mentioned in the cause title of the said writ petition in course of the day.

2. Since the issues involved in all the writ petitions are similar, the same are being taken up together and disposed of by this common order with the consent of learned counsel for the parties.

3. In all these writ petitions, the petitioners, who are presently the para-teachers, have prayed for issuance of direction upon the respondents to call them for counselling for

their appointment on the post of Assistant Teacher (Class I to V/ Class VI to VIII) in respective districts under para/non-para categories as per their respective merit, since, according to them, they have scored more marks than the candidates who being para teachers applied under non-para category and were called for counselling held on 3rd June, 2019 pursuant to the order dated 11th May, 2018 passed by the learned Division Bench in L.P.A. No.186 of 2017 with L.P.A. No.199 of 2017.

4. Learned counsel for the petitioners appearing in respective writ petitions jointly submit that the respondent authorities may be directed to accommodate the petitioners in the counselling process to be conducted for the post of Assistant Teacher(Class I to V/ Class VI to VIII) in the light of judgment dated 16.02.2022 passed by this Court in W.P.(S) No. 2378 of 2019 [Paras Nath Mandal Vs. The State of Jharkhand & Ors.] and other analogous matters as well as the order dated 15.09.2023 passed in L.P.A No. 203 of 2022 [The State of Jharkhand & Ors. Vs. Paras Nath Mandal] and other analogous cases, in respective districts keeping in view that they had applied against the vacancies of Assistant Teacher (Class-I to V/Class-VI to VIII) in different districts in the year 2015 under para categories but were not called for counselling, however, the candidates who being para teachers had applied under non-para category and had obtained lesser marks than the petitioners, were called and allowed to participate in the counselling held on 03.06.2019.

5. It is further submitted by learned counsel for the

petitioners that similar issue came up for consideration before this Court in W.P.(S) No. 2378 of 2019 [Paras Nath Mandal Vs. The State of Jharkhand & Ors.] and other analogous cases, which were allowed vide order dated 16.02.2022 with following directions:

"18. As a cumulative effect of the aforesaid observations, rules, guidelines, legal propositions and judicial pronouncements, I hereby direct the respondents to initiate process of counseling for the present petitioners by way of last opportunity, since they have obtained more marks than the last selected candidates in the merit list. The petitioners shall approach the Deputy Commissioners of the concerned Districts, as early as possible, preferably, within a period of eight weeks from the date of receipt of a copy of this order and thereafter, the Deputy Commissioner shall initiate the process of counseling after giving proper notice to the petitioners by way of Press Communiqué, advertising the notice in the local newspaper having the wide circulation in the concerned Districts and also by putting the notice on the Notice Board of the Office of concerned District Superintendent of Education and thereafter, the entire process of counseling be completed within a period of further four weeks subject to fulfilling the eligibility criteria and also if the present petitioners have secured more marks than the last selected candidates.

Let the entire process be completed within a period of four months from the date of receipt/ production of a copy of this order.

19. Let it be made clear that no further counselling shall be held for any reasons whatsoever as the advertisement for appointment of these teachers are of 2015 and the aforesaid directions have been issued in peculiar facts and circumstances of the case, which shall be not taken as precedent."

6. The State of Jharkhand, however, preferred L.P.A No. 203 of 2022 [The State of Jharkhand & Ors. Vs. Paras Nath Mandal] and other analogous cases challenging the order dated 16.02.2022 passed in W.P.(S) No. 2378 of 2019 and other analogous cases, which were dismissed by learned Division Bench vide order dated 15.09.2023 with following direction to

the State of Jharkhand:

"57. This Court, on entirety of facts and circumstances, is of the view that the order passed by learned Single Judge needs no interference by this Court and the direction so passed by learned Single Judge needs no interference by this Court and is required to be complied with at an earliest as the vacancies is of the year 2015 and it must be put to logical end without snatching right of candidates, if they are otherwise eligible. Therefore, the appellants-State are hereby directed to:

I. Initiate the process of counseling forthwith for the present petitioners by way of last opportunity as it is alleged they have obtained more marks than the last selected candidates in the merit list in the respective districts.

II. The petitioners shall approach the Deputy Commissioners of the concerned Districts, as early as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order.

III. However, in the meantime, the Deputy Commissioner of the concerned district shall give proper notice to the petitioners by way of Press Communiqué, advertising the notice in the local newspaper having the wide circulation in the concerned Districts and also by putting the notice on the Notice Board of the Office of concerned District Superintendent of Education.

IV. This Court hopes and trusts that the entire process of counseling will be completed within a period of further eight weeks subject to fulfilling the eligibility criteria and also if the present petitioners have secured more marks than the last selected candidates.

V. It is made clear that the entire process of selection shall be made strictly in accordance with relevant rules/regulations and judicial pronouncements, as mentioned above, within a period of four months from the date of receipt/production of copy of this order.

VI. Let it be made clear that no further counselling shall be held for any reasons whatsoever as the advertisement for appointment of these teachers are of 2015 and the aforesaid directions have been issued in peculiar facts and circumstances of the case, which shall be not taken as precedent."

7. It is also submitted that subsequent to disposal of the aforesaid L.P.As., a co-ordinate Bench of this Court vide order dated 19.09.2023 has disposed of another writ petition i.e. W.P.(S) No.3406 of 2021 in following terms:

"5. In view of the fair submissions made by the learned Counsel for the parties, this writ petition is being disposed of in terms of the order dated 16.02.2022, passed by this Court in case of in W.P.(S). No. 2378 of 2019 (Paras Nath Mandal Vs. the State of Jharkhand & Ors.) and other analogous cases as well as LPA No. 203 of 2022 and if the cases of the present petitioners are found to be same and similar to the cases of the petitioners in W.P.(S). No. 2378 of 2019 (Paras Nath Mandal Vs. the State of Jharkhand & Ors.) and other analogous cases, the present petitioner is also entitled for the same benefits.

6. Accordingly, I hereby direct the respondents-authorities to verify the factual aspects/issues involved in the present writ petition vis. a vis. factual aspects/issues involved in W.P.(S). No. 2378 of 2019 (Paras Nath Mandal Vs. the State of Jharkhand & Ors.) and other analogous cases, and if the facts/issues involved in the present writ petition is found to be similar to the aforementioned writ petition, the same benefits may be extended to the present petitioner also in accordance with law, within a period of 8 weeks from the date of receipt/ production of a copy of this order."

8. It is thus submitted by learned counsel for the petitioners that the present batch of writ petitions may also be disposed of in terms with the order dated 16.02.2022 passed in W.P.(S) No. 2378 of 2019 and other analogous cases as well as the order dated 15.09.2023 passed by learned Division Bench in the aforesaid L.P.As. It is further submitted that the process of counselling in terms with order dated 15.09.2023 passed in L.P.A No. 203 of 2022 and other analogous cases has not yet started and as such the respondent authorities may be directed to also include the petitioners in the said process of counselling since the candidates who being para teachers had applied under non-para category and had obtained lesser marks than the petitioners, were called for counselling held on 03.06.2019.

9. Learned counsel appearing on behalf of the respondent-State in respective writ petitions, while responding

to the query of the Court, jointly submit that as per their instructions, press communique has not yet been issued by the Deputy Commissioners of the concerned districts.

10. Under the aforesaid circumstance, the present batch of writ petitions are disposed of in terms with the direction as contained in order dated 15.09.2023 passed in L.P.A No. 203 of 2022 and other analogous cases. The respective authorities are accordingly directed to verify the factual aspect involved in each of the writ petitions in the present batch vis-à-vis the factual aspect/issues involved in W.P.(S) No. 2378 of 2019 [Paras Nath Mandal Vs. The State of Jharkhand & Ors.] and other analogous cases as well as L.P.A No. 203 of 2022 [The State of Jharkhand & Ors. Vs. Paras Nath Mandal] and other analogous cases. If on verification/scrutiny, the fact/issue involved in any of the writ petitions out of the present batch is found to be similar to the said batch of writ petitions as well as L.P.As., the same benefit will be extended to the similarly situated petitioner(s) while following the direction as contained in the order dated 15.09.2023 passed by learned Division Bench in L.P.A No. 203 of 2022 and other analogous cases.

(Rajesh Shankar, J.)