

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12566 of 2025

1. Pradip Kumar, S/o Deni Ram, R/o Village Ambedkar Nagar, P.S. District Aurangabad at present posted as Secondary Teacher and working at Kamla Devi High School, Khadiha, Block - Deo, District – Aurangabad.
2. Keshranjan Kumar, S/o Bachu Nandan Sharma, R/o Village Shamsdernagar, Daudnagar, District Aurangabad at present P.S. posted as Secondary Teacher and working at High School, Shamsdernagar, Block Daudnagar, District Aurangabad.
3. Rambaran Ram, S/o Late Magni Ram, R/o Village - Chainpur, Ward No- 18, P.O. and P.S. - Mejarganj, District - Sitamarhi, at present posted as Secondary Teacher and working at Upgraded High School, Itharwa, Block- Sonbarsa, District – Sitamarhi.
4. Poonam Kumari, D/o Ram Vilash Mahto, R/o Village Berta, P.O. Mush Harniya, P.S. Sonbarsa, District - Sitamarhi, at present posted as Senior Secondary Teacher and working at Mahanth Raghunath Das Girls plus 2 High School, Sitamarhi, Block -Dumra, District – Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Special Secretary, Education Department, Government of Bihar, Patna.
4. The Joint Secretary, Education Department, Government of Bihar, Patna.
5. The Deputy Secretary, Education Department, Government of Bihar, Patna.
6. The Director, Secondary Education, Education Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Mrityunjay Kumar, Advocate
Mr. Mukesh Kumar Singh, Advocate
Mr. Shivam Kumar, Advocate
For the Respondent/s : Mr. P.K. Shahi, Advocate General



CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-03-2026

This writ petition has been filed seeking for the following relief(s):-

“(i) For issuance of a writ in the nature of Certiorary or any other appropriate Writ/Order/Direction to declare as Ultra-vires to the provisions contained in Rule 5 and Rule 6(V)(b) and (d) of the Bihar State Senior Secondary School Head Master (Appointment, Transfer, Disciplinary Proceeding and Service Condition) Rules, 2021 (hereinafter referred to as the Head Master Rules, 2021), notified by Education Department, Government of Bihar, Patna, vide Notification No 11/Rule-01-02/2020-1338, dated -18.08.2021, to the extent of recruitment and appointment on the post of Head Master at Government/National/Nationalised/Project Senior Secondary Schools as the above-mentioned provisions are illegal, arbitrary, unconstitutional and inconsonance with law/Rules made by the Respondents themselves and further, kindly be pleased to set-aside the impugned above-said provisions.

(ii) Further, for issuance of a writ in the nature of Mandamus or any other appropriate Writ/Order/Direction as consequential relief(s) to the respondents to stay the appointment and posting process against the post of Head Master at Government/National/Nationalised/Project Senior Secondary Schools till the final disposal of this writ application.

Further, for any other order/ orders as your Lordships for that the petitioners may be found to be entitled to as per the facts and circumstances of the present case.”

2. It is the case of the petitioners that the State



Government came with new Rules for employment/appointment of teachers at Government Secondary and Senior Secondary Schools in the name of the Bihar District Board Secondary and Senior Secondary School Teacher (Employment and Service Condition) Rules, 2006 as well as Bihar Municipal Body Secondary and Senior Secondary Teacher (Employment and Service Condition) Rules, 2006 and both were notified on 11.07.2006 by the Human Resource Department, Government of Bihar, Patna and in the aforesaid two Rules of 2006, provision has been made for appointment of both trained and untrained teachers at Government/National/Nationalized/Project Secondary and Senior Secondary Schools. Rule-4 of 2006 provides for requisite qualification for appointment to the post of Secondary and Senior Secondary School teacher and Rule-8 (iv) of 2006 Rules provide that the untrained teachers shall appear their inservice teacher's training within six years and after completion of such training, they shall be provided the salary of trained teachers.

3. It is the further case of the petitioners that they were having the requisite qualification of graduate/post graduate and after following due procedure, they were selected for appointment as teachers and employment letters were issued in



their favour and they all have passed the teacher's training and there is a due date of promotion to the post of Headmaster under the provisions of 2020 Rules and the petitioners are working as Incharge Headmasters at their respective Schools.

The case of the petitioners in challenging the aforesaid two Rules as has been mentioned in the prayer portion is that Rule-5 of 2021 Rules speaks about the direct appointment to all the post of Headmaster and Rule-6(v)(b)(d) prescribes that a minimum period of continuous service on the post of Secondary teacher and Senior Secondary teacher in a School having permanent affiliation from CBSE, ICSE and BSEB, as experience for direct appointment to the post of Head Master. According to the petitioners, this Rule is contrary to Rule-8 of the Bihar District Board Secondary and Senior Secondary School Service (Appointment Promotion, Transfer, Disciplinary Proceeding and Service Condition), Rules, 2020 (hereinafter referred to as '2020 Rules'), inasmuch as, Rule-8 of 2020 Rules provide that all the post of Headmaster shall be filled up by promotion for which the qualification has been provided in that Rule itself.

4. The main contention is that when the promotion to the post of Headmaster contained under Rule-8 of 2020 Rules is



still in existence which provides that all the post of Headmaster shall be filled by promotion, Rule-5 of Bihar State Senior Secondary School Head Master (Appointment, Transfer, Disciplinary Proceeding and Service Condition) Rules, 2021 provide for direct appointment to the post of Headmaster should be struck down as it is running contrary to 2020 Rules.

5. On perusal of 2021 Rules, which is annexed to the writ petition as Annexure-P/1, from the preamble, it appears that to achieve universalization of education, it was decided to cover all *Panchayats* which are without Secondary School with one Senior Secondary School each. After the Senior Secondary School has been established in all the *Panchayats* which are not having the Secondary School, the upgraded Secondary Schools established under the National Mission of Secondary education are to be upgraded to Senior Secondary Schools.

From the preamble portion, it also appears that there is a need of effective leadership at the school level for efficacious management and improvement in the quality of education in the said school and in order to achieve such objects, a new cadre of Headmasters controlled by the State Government was to be created which will create opportunity to those Secondary teachers and Senior Secondary teachers working under



Panchayati Raj Institution and Municipal Body Institution in Senior Secondary Schools of State Government together with the Secondary teachers and Senior Secondary teachers working in the school having permanent affiliation from CBSE, ICSE and BSEB with respect to appointment on the post of Head Master. Thus 2021 Rules was framed with respect to appointment on the post of Headmasters and their service condition. In the 2021 Rules, in the definition portion, the “Upgraded Secondary School” and “Upgraded Senior Secondary School” have been defined.

So far as Rule-5 of 2021 Rules is concerned, it is stated that direct appointment shall be made to all the post of Headmaster. Rule-6 of 2021 Rules speaks about minimum educational qualification for recruitment to the post of Headmaster of the Senior Secondary School. So far as experience of such applicants are concerned, it has also been provided under Rule-6(v) of 2020 Rules as to what should be their experience, if they are the teachers of different schools. The minimum and maximum age of the teachers has also been prescribed. Apart from reservation under Rule-7 of 2021 Rules, the procedure of appointment of such Headmasters has been laid down in Rule-8 of the 2020 Rules, which is as follows:-

“8. All posts of Head Master shall be



filled by promotion, for which following qualification shall be necessary.-(i) Minimum 10 years of continuous service from the date of joining on the post of District Board Secondary Teacher or from the date of acquiring of training qualification (B.Ed/ B.A. Ed/ B.Sc Ed). whichever is later.

Or

Minimum 06 years of continuous service from the date of joining on the post of District Board Senior Secondary Teacher or from the date of acquiring of training qualification (B.Ed/ B.A. Ed/ B.Sc Ed), whichever is later.

(ii) Post Graduate with at least 45% marks from recognized university. For the Scheduled Caste/Scheduled Tribe/Extremely Backward Class/ Backward Class/Persons with disabilities & women 5% relaxation shall be given in the minimum required marks.

(ii) Qualified in Assessment (Efficiency Test)/Teacher Eligibility Test.

(iv) As directed. Cleanliness Certificate of three years prior to the year of promotion.”

Rule-9 deals with the verification of certificates and Rule-10 deals with the probation period.

Rule-11 of 2021 Rules deals with departmental examination, which is quoted hereinbelow:-

“11. Departmental Examination. The Head Master shall have to qualify in the departmental examination apart from the completion of probation period satisfactorily and successful completion of prescribed training. A detailed guideline with respect to departmental examination shall be issued separately after making consultation with the Central Examination Committee, Revenue Board, Bihar and Administrative Department.”

Rule-12 and 13 deals with confirmation and seniority



list, therefore, sufficient safeguards have been provided in 2021 Rules itself for direct appointment to the post of headmasters in the Senior Secondary Schools.

6. In view of the eligibility criteria, the minimum educational qualification, the procedure that has been laid down for appointment of Headmaster and then keeping them on probation for two years and requirement of passing of the departmental examination before confirmation, we are of the humble view that provisions cannot be said to be inconsistent with any constitutional provision. Though the learned counsel for the petitioner submitted that 2021 Rules has not taken care of the seniority aspect of different teachers who will be appointed to the post of Headmaster once they are appointed and successfully completed the probation period as well as the departmental examination and got confirmed but in view of Rule-13 of 2021 Rules, we find that the *inter se* seniority of the Headmaster is to be governed by the principle determined by the General Administration Department, and the Seniority List of the Headmasters in Senior Secondary Schools shall be maintained at the divisional level.

Therefore, the purpose for which this 2021 Rules has been enacted and new cadre of Headmasters has been created,



we are of the view that it cannot be said that the authorities either lacks legislative competence or there is violation of any fundamental rules or it is arbitrary and irrational, failing to meet the standard of Article 14 of the Constitution of India.

In the case of *State of Andhra Pradesh and Ors. -Vrs.- McDowell and Co. and Ors.* reported in *1996 (3) Supreme court cases 709*, it has been held that a law made by the Parliament or the Legislature can be struck down by courts on two grounds and two grounds alone that is (i) lack of legislative competence (ii) violation of any of the fundamental rights guaranteed in part III of the constitution or of any other constitutional provision. There is no third ground. If an enactment is challenged as violative of Article 14 of the constitution, it can be struck down only if it is found that it is violative of the equality clause/equal protection clause enshrined therein. No enactment can be struck down by just saying that it is arbitrary or unreasonable. An enactment cannot be struck down on the ground that the Court thinks it is unjustified. The Parliament and the Legislature are supposed to know and be aware of the needs of the people and what is good and bad for them. The Court cannot sit in judgment over their wisdom.



Therefore, we are of the view that the grounds on which the validity of two specific provisions i.e Rule-5 and Rule-6(v)(b) and (d) of 2021 Rules have been challenged, are not sustainable in the eyes of law.

7. Learned Advocate General submits that in terms of 2021 Rules, appointments have already been made in the meantime and the petitioners have not arrayed any of the Headmaster, so appointed, as party to the writ petition.

8. Considering the submission of the learned counsel for the respective parties, we feel that such Headmasters are the necessary parties and since they have not been arrayed as parties and the constitutional validity of the Rules which have been challenged are not sustainable in the eyes of law, therefore, the writ petition being devoid of any merit, stands dismissed.

9. Pending I.A., if any, stands disposed of.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	NA

