

**SUPREME COURT OF INDIA**

Nand Kishore Ojha

Vs.

Madan Mohan Jha

(Dr.Ar.Lakshmanan and Altamas Kabir,JJ.)

19.03.2007

**JUDGMENT**

**Dr.Ar.Lakshmanan,J.,**

1. Heard Mr. L.N. Rao, learned Senior Counsel for the petitioner and Mr. Kailash Vasdev, learned Senior Counsel for the respondent.

2. The State of Bihar by its affidavit dated 18.1.2006 filed in this Court has stated thus: "....."

4. That it is submitted that the government in its 'agenda for good governance' has chartered a policy framework for education in the State. As regards the school education, it is committed to recruit and fill in the vacant posts of teachers on top priority; reactivate teacher's training for motivational re-orientation, for enhancing their capability and quality of teaching; and for constructing and repairing of school buildings. In addition the government is also setting up a Committee of Experts to suggest comprehensive reforms in all areas of education so as to raise its standard and quality.

5. That in the meantime, it has been decided that trained teachers be recruited on the vacant posts available in the State of Bihar. The Bihar Elementary Teachers Appointment Rules, 2003 having been quashed by the Patna High Court, new recruitment rules are contemplated to facilitate recruitment of trained teachers in a decentralized manner, by giving them age relaxation as ordered by the High Court.

6. That Chapters 6 and 7 of the Bihar Education Code relating to oriental education and hostels and messes will be kept in mind, as directed by the Patna High Court, while making recruitment of teachers.

7. That it is respectfully submitted that since the number of available trained teachers in the State is expected to be less than the available vacancies, no test for selection is required. To that extent, a reference to this Bihar Public Service Commission for initiating the process of recruitment of trained teachers may not be necessary, and the

orders of this Hon'ble Court and of the Patna High Court in this regard may be modified."

3. According to the learned Senior Counsel for the petitioner, the said undertaking and in particular para 7 of the said undertaking have not been given effect to by the State of Bihar. An Affidavit in reply dated 7.2.2007 on behalf of the sole contemnor (for State of Bihar) has been filed explaining the change of circumstances. Paragraphs 8 to 14 of the said affidavit read thus:

8. That it is respectfully submitted that the State of Bihar has a total of about 196 lakh of children in the age group of 6-14 years. The State is aware of its constitutional duty of providing free and compulsory education to children in this age group, as postulated in Article 21A of the Constitution. By taking into account 24 lakh children studying in private schools, the State requires a total of 4.30 lakh teachers to teach remaining 172 lakh children in the ratio of 1:40, fixed as the norm under the National Policy on Education. Presently it has had only 1.10 lakh teachers on regular basis and about 1 lakh contract teachers (contract for 11 months) on a salary of Rs.1500/- per month only.

9. That in compliance of the assurance given to the Hon'ble Patna High Court by the State Government and also as a part of the plan to restructure the entire school education in the State of Bihar, the government has taken a series of measures as detailed below:

- a) Opening of 15, 000 new schools
- b) Developing an integrated plan for school construction
- c) Revitalizing teacher- training institutions
- d) Revamping the mid-day meal scheme etc.

10. That it is respectfully stated that with regard to the recruitment and deployment of teachers, the State has taken several major policy decisions as detailed below:

- a) Abolish the system of contract teachers
- b) Confirm around one lakh contract teachers with reasonable salaries and train them under the NCTE approved training programme
- c) Provide conducive service conditions for the teachers."

4. In paragraph 17 of the said affidavit in reply dated 7.2.2007, it is stated that priority has been given to trained teachers in appointment and only if trained teachers are not available in sufficient numbers, the case of untrained teachers are considered by the concerned by the Panchayati Raj Institute (PRI) to achieve the constitutional goal of free and compulsory

education for children from age 6-14, and in this regard the State of Bihar and other answering respondents are complying with the orders of the High Court and also of this Court. A rejoinder has also been filed by the petitioner disputing the statements made by the State of Bihar in the affidavit dated 7.2.2007.

5. In view of the categorical statement now made that the priority will be given to the trained teachers in appointment and also the clarification made in paragraphs 19 to 22 of aforesaid affidavit dated 7.2.2007, we direct the State of Bihar to implement the undertaking given by the State of Bihar earlier and also now by the present affidavit dated 7.2.2007 in letter and spirit by appointing the trained teachers on priority basis.

6. The Contempt Petition is disposed of accordingly.