

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2650 of 2015

1. Abdul Majid son of Lal Mohammad, resident of Village – Mornsif, .P.O. Kerma, P S – Maniyari, District – Muzaffarpur.
2. Afsana Perween, D/o Md. Khalique, resident of M P Bagh, P.S. Town Ara, District – Bhojpur at Ara.
3. Abdul Hadi, son of Lal Mohammad, resident of Village – Mornsif, P.O. Kerma, P S – Maniyari, District – Muzaffarpur.
4. Md. Qurban Ansari, son of Md. Alihussain Ansari, Resident of Village – Baksara, P O + P S – Itarhi, District – Buxar.
5. Md. Mazhar Ansari, son of Md. Nezamuddin Ansari, resident of village – Raghunathpur, P O – Gosaipur, P S – Rajpur, District – Buxar.
6. Shekh Mahtab Mosarraf Ali, son of Shekh Warasat Ali, residents of Village – Pathan Toli, (Ward No. 15), P.O. Bhabua, District – Kaimur.
7. Saddam Husain Rain son of Quayanmuddin Rain, resident of village – Bhabua, P O + P S – Bhabua, District – Kaimur.
8. Md. Irfan Ahmad, son of Md. Murtuza Ali, resident of Village – Mashrakh Takht, P O + P S – Mashrakh, District – Chapra (Saran).
9. Hashibur Rahman son of Mohammad Yunus, resident of Village – Bangawn Falasi, P O – Dharam Gunj, District – Araria.
10. Md. Irshad Alam son of Md. Ilyas, resident of Village – Shobhans, P O – Jahangiratola, Distirct – Khagaria.
11. Md. Masoom son of Abdul Haiyum, resident of village – Kathari, P O – Mohabba, P S – Dandari, Distirct – Begusarai.
12. Faiyaz Ahmad, son of Md. Mojibur Rahman, resident of Village – Jitpur (Garha), P O – Rampurlahi, P S – Shankarpur, District – Madhepura.
13. Shekh Babar Ali son of Shekh Tahir Ali, resident of Village – Bhabua, P O + P S – Bhabua, District – Kaimur.
14. Md. Salik Ansari son of Md. Farooq Ansari, resident of Village + P S – Bhabua, District – Kaimur.
15. Sana Naj daughter of Mazhar Husain, resident of village Chitra Gupi road, Ward No. 022, P O + P S – Bhabua, District – Kaimur.
16. Md. Kail Alam son of Manzar Hussain, resident of village – Shitr Guptroad, Ward No. 22, P O + P S – Bhabua, District – Kaimur.
17. Neshat Haider, son of Ezaz Ahmad, resident of Village – Mauwer, P S – Jalai (Mahishi), District – Saharsa.
18. Mohammad Ali, son of Late Ali Ibrahim, resident of Village – Bhelahi, P S – Mahishi (Jalai), District – Saharsa.
19. Shamim Ahmad, son of late Md. Rayees, Resident of Village – Kithram, P S – Jamalpur (Bargaon), District – Darbhanga.
20. Sulaiman Ashraf, son of late Mohammad Safir, resident of village – Aranda, P S – M H Nagar (Hasanpura), District – Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna – 17.
3. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna-17.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 386 of 2015

1. Md. Aslam @ Aslam Beg S/o Md. Irshad R/o vill + P.O. - Virnagar, P.S. - Bhargama , District - Araria
2. Md. Prince Tousife S/o Azizur Rahman R/o Vill + P.O. Manzahri Virnagar , P.S - Bhargama, District - Araria.
3. Mumtazul Arfeen S/o Monisul Arfin R/O Moh- Pakki Talab , P.S. - Biharsharif, District - Nalanda
4. Ghulam Sarwar S/o Md. Noruddin R/o Vill- Saren , P.S- Makhdumpur, District - Jehanabad
5. Md. Amjad S/o Abdus Samad R/o Vill + P.S. - Dinara, District - Rohtas
6. Naiyer Shaheen S/o M d. Ehsanuddun R/o Vill- Bhawanokhap, P.S. - Nabinagar, District - Aurangabad
7. Ehsanul Haque S/o Md. Anwarul Haque R/o Vill- Nayatola Ganj No. 1, Bettia, District - West Champaran
8. Md. Irshad Alam S/o Abdul Hameed R/o Vill - Basolol, P.O. - Narhan, P.S. - Vibhutipur , District - Samastipur
9. Asma Khatoon D/o Muzaffar Alam R/o Vill- Navinagar , P.S. - Dulhin Bazar , District - Patna.
10. Md. Anwar Alam S/o Islamuddin R/o Vill - Baagdarm P.O - Channidori P.S. - Amor , District- Purnia
11. Md. Rizwan Alam S/o Abdul Hafiz R/o Vill- Simalwari, P.O. - Amor, P.S. - Amor , District - Purnia
12. Salim Anzar S/o Abdul Hafuiz R/o Vill - Simalwari, P.S- Amor , District - Purnia.
13. Md. Mansur Alam S/o Md. Shafiquddin R/o Vill- Ajghar, P.O- Nima , P.S. - Chandapura, District - Begusarai
14. Md. Javed S/o Md. Zakaria R/o Vill - Saidpur Jahid, P.S - Rupauli, District - Samastipur
15. Raju Khan S/o Md. Muslim Khan R/o Vill - Siwdi , P.O- Manjhaul , District - Begusarai
16. Md. Shahjehan S/o MD. Saharyar R/o Vill - Alo, P.S - Aali, District- Gaya
17. Md. Naushad Alam S/o Md. Irteza Alam R/o Pakki Tslsb , P.O- Biharsharif , P. S. - Laheri, District - Nalanda
18. Shahzadi Praveen D/o Md. Sohrab R/o Vill + P.O + P.S- Garhpura, District - Begusarai
19. Md. Yahiya Hasan S/o Sayyed Abdul Qadir R/o Moh - Moilawar, P.S. - Nawada , District - Nawada
20. Pravin Khatoon D/o Akbar Ali Qureshi R/o Vill + P.O - Bellari , P.S. - Mohania, District - Kaimur
21. Md. Shakib Alam S/o Md. Wasim Alam R/o Vill - Islamganj , P.O- Mohania , P.S- Mohania, District - Kaimur
22. Md. Kashif Alam S/o Md. Wasim Alam R/o Vill - Islamganj , P.O- M ohania, P.S- Mohania , District - Kaimur
23. Md. Sajid S/o Md. Kasimuddin R/o Vill+ P.O - Singhari , P.S- Dulhin Bazar , District - Patna
24. Md. Sohrab Alam S/o Md. Nasim Ahmad R/o Vill - Handi Pokhar, P.S- Dighalbank, District - Kishanganj
25. Md. Sarfaraz Alam S/o Md. Nasim Alam R/o Vill - Handi Pokhar , P.S. -

Dighalbank, District - Kishanganj

26. Md. Asjad Hasnain S/o Irfan R/o Vill- Alamgeer, P.S- Akbarnagar, District - Bhagalpur

27. Md. Jahangir Alam S/o Shekh Qamruddin R/o Vill. + P.O.- Piru, P.S. Haspura, District - Airangabad

28. Md. Shahid S/o Zafar Alam R/o Vill - Chotinaki, P.S- Sanokhar, District - Bhagalpur

29. Md. Shahab Akhtar S/o md. Ehsanuddin Haque R/o Vill= Dogaj Sonapur, P.S - Sudhani , District - Katihar

30. Md. Sagir Ahmad S/o Mahmud Alam R/o Vill - Narhat , P.S. - Narhat, District- Nawada

31. Wasim Akram S/o Ainul Haque R/o Vill - Karati , P.S. - R. Pakhar, District - Kaimur

32. Md. Razaullah S/o Md. Faizur Rahman R/o Vill - Rahmatbagh , P.S.- Nathnagar , District - Bhagalpur

33. Md. Razaul Haque S/o Md. Faizur Rahman R/o Vill - Rahmatbagh , P.S.- Nathnagar , District - Bhagalpur

34. Md. Shoaib Akhtar S/o Md. Muslim R/o Vill - Pathraha , P.S. - Bhatni, District- Madhepura

35. Md. Jawed Alam S/o Md. Nasim Sah R/o Vill- Amjhar, P.S. - Amjhar Sharif, District - Aurangabad

36. Md. Tauquir Ali S/o Md. Nezamuddin Ansari R/o Vill - Amjhar, P.S. - Amjhar, District - Aurangabad

37. Md. Shahbaz S/o Md. Yusuf R/o Vill - Baghauli, P.S. - Mahrapur, District - Supaul

38. Md. Jahangir Alam S/o Md. Moti-ur-Rahman R/o Vill + P.O - Bishunpur , P.S. - Bishanpur Bazar , District - Madhepura

39. Md. Mushtaque Alam S/o Md. Salauddin R/o Vill- Bachauli, P.S- Maharpura, District - Supaul

40. Md. Sarfaraz Alam S/o Md. Salauddin R/o Vill- Bachauli, P.S- Maharpura, District - Supaul

41. Md. Sanaullah S/o Md. Mustaqim R/o Vill - Phulkaha, P.S. - Jadya, District - Supaul

42. Md. Rahat Alam S/o Md. Azizul R/o Vill - Pokharia, P.S. - Belhari, District - Katihar

43. Abdul Noaman S/o Siddique R/o Vill -Pokharia, P.S. - Belhari, District - Katihar

44. Md. Nezam S/o Md. Mustafa R/o Vill- Kamalpur, P.S. + P.O - Lokha, District - Madhubani

45. Shabbir Ahmad S/o Abdul Qaiyyumm R/o Vill- Madhopura, P.S. - Maarhora, District - Saran

46. Parvez Akhtar S/o Md.; Shahabuddin R/o Vill - Garhani , P. S. - Garhani , District - Bhojpur

47. Ahmad Raza S/o Md. Yunus R/o Vill - Choski Tola , P.S. - Baisi , District - Purnia

48. Muzaffar Hussain S/o Abdul Rashid R/o Vill + P.O.+P.S, - Dariyapur , District - Saran

49. Istekhar Ahmad S/o Alam Sah R/o Vill+P.O - Dinara, P.S. - Dinara, District - Rohtas

50. Sk Meraj S/o Shekh Hanif R/o Vill - Mednipur , P.O + P.S - Manihari, District - Katihar

51. Md. Zafeer Ansari S/o Md. Wakil Ansari R/o Vill - Khadda Tola , Munsahi ,

P.O- Kuchlahi , P.S- Nautan , District - West Champaran

52. Md. Saroor Alam Ansari S/o Mehmud Alam Ansari R/o Vill- Hasanpura, P.O+ P.S- Garkha , District- Saran

53. Md. Danish Akhtar S/o Md. Jamil Akhtar R/o Vill - Arwal P.S. + P.O- Arwal , District - Arwal

54. Md. Shahabuddin S/o Md. Mustaqim R/o Vill - Faridabad, P.O+P.S+ District - Arwal

55. Md. Neyaz Shamshi S/o Md. Iftexhar Shamshi R/o Vill - Faridabad, P.O.+ P.S+ District - Arwal

.... Petitioner/s

Versus

1. The Bihar School Examination Board through its Secretary, Sinha Library Road, Patna -17

2. The Chairman, the Bihar School Examination Board, Sinha Library Road, Patna - 17

3. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna-17

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 5217 of 2014

=====

Amir Hasan S/O Zakir Ahmad, Resident of Village -Chholi Balliya Sadanchak, P.S. Balliya, District Begusarai.

.... Petitioner/s

Versus

1. The Bihar School Examination Board, Patna through Its Chairman.

2. The Secretary, Bihar School Examination Board, Patna.

3. The Examination Controller, Bihar School Examination Board, Patna.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 21873 of 2014

=====

Huma Sadia W/o Zubair and daughter of Md. Azimuddin resident of village - Bangla Coal, P.S. Mahalgaon, P.S. Bhuna and District - Araria

.... Petitioner/s

Versus

1. The State of Bihar through its Director, Primary Education, Bihar, Patna

2. Chairman, Bihar School Examination Board, Patna

3. Secretary, Bihar School Examination Board, Patna

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 1231 of 2015

=====

Tapan Kumar Bhattacharya, son Shambhu Nath Bhattacharya, resident of village-
Manihari (Tali Para), Post Office – Manihari, P S – Manihari, District - Katihar
..... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Secretary, Bihar School Examination Board, Patna.
3. The District Magistrate, Katihar.
4. The District Education Officer, Katihar.
5. The District Programme Officer (Edu.), Katihar

..... Respondent/s

with

Civil Writ Jurisdiction Case No. 615 of 2015

=====

Abdul Raoof Son of Md. Kamil Resident of Village- Vishahariya, Tola Sahadat,
P.O.- Akar Thapa, P.S.- Bhargama, District- Araria.

..... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Chairman, Bihar School Examination Board, Budh Marg, Patna.
4. The Secretary, Bihar School Examination Board, Budh Marg, Patna.

..... Respondent/s

with

Civil Writ Jurisdiction Case No. 4805 of 2015

=====

Shahbaj Hashimi. Son of Md. Hasuddin, aged about 20 Years, Resident of Mohalla
- Aasi Nagar, P.O.- Chakara, P.S.- Siwan Muffassil, District - Siwan, Pincode -
841226.

..... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources
Department (Education Department), Government of Bihar, at Patna, District -
Patna.
2. The Secretary, Bihar School Examination Board, Patna - 800006 (Bihar).
3. The Member Secretary, National Council for Teacher Education, 15, (Wing-2),
Hans Bhawan-1, Bahadur Sah Jafar Marg, New Delhi - 110002.

..... Respondent/s

with

Civil Writ Jurisdiction Case No. 21945 of 2014

- =====
1. Md Anwar Ahmad son of Md. Islam, resident of Village - Kurha Masjid Tola, Police Station - Sahebpur Kamal, District - Begusarai.
 2. Md. Shamshad son of Md. Mustafa, resident of Village - Sandalpur, Police Station - Sahebpur Kamal, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, New Secretariat, Govt. of Bihar, Patna.
2. The Secretary, Department of Human Resources Development, Govt. Of Bihar, New Secretariat, Patna.
3. The Director, Primary Education, Govt. of Bihar, New Secretariat, Patna.
4. The District Magistrate, Begusarai.
5. The District Education Officer, Begusarai.
6. The District Programme Officer (Establishment), Begusarai.
7. The Block Education Extension Officer, Sahebpur Kamal, District - Begusarai.
8. The Bihar School Examination Board through its Chairman Budh Marg (Near Sinha Library), Patna.
9. The Secretary, Bihar School Examination Board, Patna. Budh Marg (Near Sinha Library), Patna.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 3241 of 2015

=====

1. Md. Shakil Ahmad S/o- Md. Nurul Hassan, resident of village and P.O.- Piprahi, Block and P.S.- Ladania, District- Madhubani
2. Md. Amaduddin Ansari S/o- Maulvi Faizurrah Ansari, Block- Rahika, P.S.- Madhubani, resident of village- Raghonagar, Post Bhowara Ward No. 22, Block Rahika, District- Madhubani
3. Moinuddin, S/o Md. Akhtar Hussain, resident of village- Ranti, P.S.- Rajnagar, Block- Rajnagar, District- Madhubani
4. Mohiuddin, S/o Md. Akhtar Hussain, resident of village- Ranti, P.S.- Rajnagar, Block- Rajnagar, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, New Secretariat, Government of Bihar, Patna
2. The Secretary, Human Resources Development Department, New Secretariat, Government of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, New Secretariat, Patna
4. The Chairman, Bihar School Examination Board, Patna
5. The Secretary, Bihar School Examination Board, Patna
6. The District Magistrate, Madhubani
7. The District Magistrate, Darbhanga
8. The District Education Officer, Madhubani
9. The District Programme Officer (Establishment), Madhubani
10. The Block Education (Extension) Officer, Madhubani

- 
11. The District Education Officer, Darbhanga
 12. The District Programme Officer (Establishment), Darbhanga
 13. The Block Education (Extension) Officer, Darbhanga
 14. The Block Education Officer, Rehika, District- Madhubani
 15. The Block Education Officer, Ladania, District- Madhubani
 16. The Block Education Officer, Jainagar, District- Madhubani
 17. The Block Education Officer, Pandol, District- Madhubani
 18. The Block Education Officer, Benipatti, District- Madhubani
 19. The Block Education Officer, Bispi, District- Madhubani
 20. The Block Education Officer, Basopatti, District- Madhubani
 21. The Executive Officer, Nagar Parishad, Madhubani
 22. The Executive Officer, Nagar Nigam, Darbhanga
 23. The Block Development Officer, Ali Nagar, District- Darbhanga
 24. The Block Development Officer, Bahadurpur, District- Darbhanga
 25. The Block Development Officer, Bahari, District- Darbhanga
 26. The Block Development Officer, Benipur, District- Darbhanga
 27. The Block Development Officer, Birol, District- Darbhanga
 28. The Block Development Officer, Gora Bairam, District- Darbhanga
 29. The Block Development Officer, Ghanshyampur, District- Darbhanga
 30. The Block Development Officer, Hanuman Nagar, District- Darbhanga
 31. The Block Development Officer, Haiya Ghat, District- Darbhanga
 32. The Block Development Officer, Gala, District- Darbhanga
 33. The Block Development Officer, Ka Asthan, District- Darbhanga
 34. The Block Development Officer, Kabati, District- Darbhanga
 35. The Block Development Officer, Kiratpur, District- Darbhanga
 36. The Block Development Officer, Manigachi, District- Darbhanga
 37. The Block Development Officer, Darbhanga Sadar, District- Darbhanga
 38. The Block Development Officer, Siahwara, District- Darbhanga
 39. The Block Development Officer, Tardeh, District- Darbhanga

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 4043 of 2015

=====

Abdus Sattar Alam S/o Md. Ihaque R/o Village Nishiharpur, P.O. - Sonbarsa, P.s. Shankarpur, District- Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Human Resources Development Department, New Secretariat, Patna.
2. Chairman Bihar School Examination Board, Patna.
3. Director Primary Education Bihar, Patna.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 5432 of 2015

=====

Bushra Yasmin D/o Md. Nasim, Resident of village- Kamraon, P.S. Dalsinghsarai
District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Primary Education, Bihar, Patna.
2. The Secretary, Bihar School Examination Board, Bihar, Patna.

.... Respondent/s

Appearance :

(In CWJC No. 2650 of 2015)

For the Petitioner/s : Mr. Dr. Abdus Shakoor

For the Respondent/s : Mr. GP32- HARISH KUMAR

(In CWJC No. 386 of 2015)

For the Petitioner/s : Mr. Shailesh Kumar

For the Respondent/s : Mrs. Namrata Mishra, GA 13

For N C T E : Mr. S N Pathak

(In CWJC No. 5217 of 2014)

For the Petitioner/s : Mr. BINOD KUMAR

For the Respondent/s : Mrs. Binita Singh

For N C T E : Mr. S N Pathak

(In CWJC No. 21873 of 2014)

For the Petitioner/s : Mr. Mohammed Abu Haidar

Mr. Md. Abu Sajan

For the Respondent/s : Mr. GP1- U.S.S.SINGH

For N C T E : Mr. S N Pathak

(In CWJC No. 1231 of 2015)

For the Petitioner/s : Mr. Sandeep Patil

For the Respondent/s : Mr. Lalit Kishore, Sr. Advocate

Mr. Purnendu Singh

For N C T E : Mr. S N Pathak

(In CWJC No. 615 of 2015)

For the Petitioner/s : Mr. Navjot Yeshu

For the Respondent/s : Ms. Ratna Kumari, AC to SC13

For B.S.E.B. : Mrs. Namrata Mishra

For N C T E ; Mr. S N Pathak

(In CWJC No. 4805 of 2015)

For the Petitioner/s : Mr. Birendra Nath Mishra

For the Respondent/s : Mr. GP4- UMA SHANKAR

For N C T E ; Mr. S N Pathak

(In CWJC No. 21945 of 2014)

For the Petitioner/s : Mr. Aditya Narain Singh

Mr. Kundan Kumar Sinha

For the Respondent/s : Mr. AAG11- ASHOK KR. KESARI

For the B.S.E.B : Mr. Lalit Kishore, Sr. Advocate

Mr. Purnendu Singh

For N C T E : Mr. S N Pathak

(In CWJC No. 3241 of 2015)

For the Petitioner/s : Mr. Sachchida Nand Lal Karan

Mr. Alok

Mr. Jitendra Kumar Rai

For the Respondent/s : Ms. Ratna Kumari, AC to SC13

For N C T E : Mr. S N Pathak

(In CWJC No. 4043 of 2015)

For the Petitioner/s : Mr. Diwakar Prasad Singh

For the Respondent/s : Mr. GA 6

(In CWJC No. 5432 of 2015)

For the Petitioner/s : Mr. Rajeev Ranjan No.II

For the Respondent/s : Mr. GP16- RAJESH SINGH

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 06 -05-2015

After the publication of the result by Bihar School Examination Board of Bihar Primary Urdu & Bangla (Special) Teachers Eligibility Test (hereinafter referred to as the eligibility test), a bagful of writ applications came to be filed seeking diverse kind of directions and relief from the Court. Some wanted the result to be quashed, some others wanted grant of grace marks across the board to each and every candidate and some others wanted a direction to appoint the qualified candidates on the basis of the result so published. On the surface such diverse kind of prayer and relief looks irreconcilable. Counsels appearing in these writ applications, therefore, have adverse and conflicting submissions to make.

2. It is important therefore to state the backgrounds under which these litigations have arisen.

3. After the Right of Children to Free and Compulsory Education Act (RTE) 2009 was notified, the National Council for Teachers Education issued guidelines for conducting Teachers Eligibility Test and made it mandatory. In furtherance to the guidelines and also to ensure implementation thereof, the Department of Education, Government of Bihar, notified a set of rules on 3.4.2012. The rule in question is known as Bihar Panchayat Primary Teachers (Employment and Service Conditions) Rules, 2012. This rule also made passing of TET Examination by all candidates, who wanted to be appointed as teachers

mandatory.

4. In view of the above statutory requirements, Bihar School Examination Board was given the responsibility of conducting the TET Examination for Urdu and Bangla teachers and an advertisement was issued in terms of Annexure-1. Large number of candidates running into tens of thousands responded. The examination was held on 1.10.2013. After the examination got over, many a candidates raised objections about the correctness of either the question or the answer provided by the Examination Board. In fact, to be fair to Bihar School Examination Board, they made the question paper and the model answer available on the Website and the objections were invited by 21.10.2013.

5. About 350 objections were received by the Board till 21.10.2013, which led to appointment of Subject Experts. The decision to appoint the Subject Experts is corroborated by the notification dated 14.11.2013, which is Annexure-B to the counter affidavit of Bihar School Examination Board.

6. The Subject Experts submitted their report and opined that there were two defective questions in Paper-I and three defective questions in Paper-II, which needed to be addressed. The Examination Board considered the report of the said experts and the Board in its meeting dated 20.11.2013 decided to delete two questions of Paper-I and three questions of Paper-II. The Computer Centre was given a direction for preparation and publication of results of the candidates by marking only 148 questions for Paper-I and 147 questions for Paper-II. In other words, evaluation was done with the reduced number of questions. This result came to be published on 29.11.2013.

7. The result was uploaded on the Website of the Examination Board along with OMR and Answer Sheets of the candidates.

8. It is said that the Board received several complaints again by

candidates of Urdu subject claiming that some questions are either defective or confusing. The matter was this time taken up at the level of the Education Department on 11.2.2014 and on the basis of yet another set of Subject Experts, a kind of consensus with regard to 10 questions of Urdu language of Paper-II were said to be wrong or confusing. The questions numbers are 99, 100, 101, 110, 112, 113, 115, 125, 129 and 145. This time a decision was taken not to delete the questions but to award one marks each against 10 defective or so-called confusing questions in the said examination. The Court was also informed that initially marks was awarded and confined to the candidates who had attempted those questions and not the rest. This, obviously, led a lot of confusion and bickering. The decision, therefore, was to provide 10 marks against the defective questions to those candidates who had not been awarded marks in those questions. The decision of the State Government is Annexure-D to the counter affidavit of Examination Board.

9. The Court is informed by the Examination Board that CWJC No. 3098 of 2014 was filed on the issue of declaration of result and award of marks, which was heard and disposed of on 13.5.2014. The order is Annexure-E to the counter affidavit.

10. The Examination Board in the light of the direction of the State Government and the High Court re-published the result.

11. The publication of result again received objections from so-called different corners with regard to Paper –I of the Eligibility Test. Yet another committee was set up and so-called special members were invited to inquire into the fresh objections raised with regard to Paper – I. This Committee, which held its meeting on 3.9.2014, came to an opinion that 13 questions of Paper-I were either wrong or confusing. The question numbers indicated are 01, 07, 17, 30, 43,

101, 103, 114, 125, 129, 131, 136 and 138.

12. The opinion of the above experts was placed in the meeting of the Board on 17.11.2014, who decided to grant 13 marks against the said defective questions of Paper-1 i.e. one marks each for the so-called defective question. The rider was that this mark will not be given to those candidates who had already been awarded marks in those questions. The result was revised 4th time over.

13. Some more questions and some more confusion still persist with regard to the answers/questions. The variable kind of result and its publication also led to all kinds of confusion if not rumours amongst the candidates, who either became successful or did not become successful. It is also important to note that a minimum cut off marks for different categories of candidates was fixed, which for the general category was said to be 89 (60%) and for OBC and EBC 81 (55%) etc. etc.

14. Some set of writ applications questions the wisdom of granting 10 marks across the board in Paper-I and 13 marks across the Board in Paper-II. It is urged on behalf of the some of the petitioners that award of such marks across the board will be detrimental to the final preparation of merit list and many a eligible candidates will be pushed in the zone of consideration because virtually every candidate starts up with 10 and 13 marks in their kitty with a basic presumption that every candidate could provide the right answer to those defective questions. Taking an extreme example, if this modality is adopted, even those candidates who may not have attempted even one question will still get 10 marks in Paper-1 and 13 marks in Paper-II. Yet another situation will be that many a candidates who may not have attempted all the questions or only part of questions, will end up with marks even beyond the attempted questions. It all will have the effect of pushing up the minimum bench mark and helping people to

cross the threshold without any effort on their part. This will be a reward to the candidates because of inefficiency or incompetence of the body conducting the examination.

15. Another attack made on such a modality is that results were published and republished four times over. What was the occasion for the Examination Board to keep receiving objections after every declaration of result? Is it ever done in any other examination? The readiness to accept objections is also bewildering. The appointments of so-called experts or special invitees did not constitute the same people or common people every time. A new committee was constituted who naturally had a different opinion on different questions. If this modality was/ is allowed to be continued, there will never be any end to such dispute as to which is the correct question and answer. If the matter was referred to the same body of experts, some kind of consistency would have arisen. But, obviously, there was something much more than it meets the eye by the State or the Examination Board who kept constituting committees and inviting objections after every publication of results. It is not the case of the Examination Board that even after publication of the last result, some objections have not arrived. Therefore, the whole exercise culminating into award of marks against the so-called wrong questions is fishy as well as irrational keeping in mind the object and performance in the eligibility test which has significance.

16. It was submitted on behalf of some of the petitioners that the first committee constituted by the Examination Board rightly took a view that 2-3 questions found to be incorrect should be deleted and evaluation be done on the basis of the left over questions. It was 148 and 147 respectively. Then an innovation was taken that those who had attempted a wrong question will be given marks and those who did not will not be given marks. When more hue and

cry was raised, a decision was taken to award 10 to 13 marks across the board to all the candidates. There is no clear answer as to why every candidate ought to be given a head start of as many marks if it was also not done to extend the zone of consideration and allow more people who may not have otherwise qualified.

17. The Court may not have had an occasion to comment as above if the TET was only eligibility test or a qualifying test for the appointment on the post of teachers. The marks obtained by candidates even in the TET Examination carries a weightage. This is confirmed by reading 2012 Rules, specially Rule 11 (Kha), which is reproduced herein below:

“11. नियोजन की प्रक्रिया ।—

(क) आवेदन

.....

(ख) मेधा सूची का निर्माण ।— प्रखण्ड स्तर पर मेधा सूची का निर्माण प्रखण्ड नियोजन समिति के सचिव सह प्रखण्ड विकास पदाधिकारी एवं प्रखण्ड शिक्षा प्रसार पदाधिकारी द्वारा संयुक्त रूप से किया जाएगा। किन्तु मुख्य उत्तरदायित्व नियोजन समिति के सचिव की होगी। इसी प्रकार ग्राम पंचायत स्तर पर मेधा सूची का निर्माण पंचायत नियोजन समिति के सचिव एवं नियोजन समिति में मनोनीत उच्च विद्यालय के शिक्षक की होगी। नियोजन समिति के सचिव मेधा सूची की तैयारी हेतु स्थान एवं तिथि आदि तय कर दूसरे सदस्य से आवश्यक सहयोग लेंगे। मेधा सूची के प्रत्येक पेज पर दोनों सदस्यों का हस्ताक्षर होगा।

बेसिक ग्रेड के पंचायत शिक्षक एवं प्रखण्ड शिक्षक के नियोजन हेतु मेधा सूची :-

(i) मैट्रिक परीक्षा में प्राप्त प्राप्तांक का प्रतिशत

योग

(ii) इन्टरमीडियट परीक्षा में प्राप्त प्राप्तांक का प्रतिशत

योग

(iii) प्रशिक्षण परीक्षा में प्राप्त प्राप्तांक का प्रतिशत

उपर्युक्त तीनों को जोड़कर तीन से भाग देने पर प्राप्त प्रतिशत अंक अभ्यर्थी का मेधा अंक होगा।

अप्रशिक्षित अभ्यर्थियों के मामले में क्रमांक (i) एवं (ii) को जोड़कर दो से भाग दिया जायेगा।

(iv) अभ्यर्थी के मेधा अंक में शिक्षक पात्रता परीक्षा के प्राप्तांक के आधार पर निम्न प्रकार अतिरिक्त मेधा अंक जोड़े जायेंगे :-

(क) 90 % एवं ऊपर – 10 अंक

(ख) 80 % एवं ऊपर

90 % से कम – 06 अंक

(ग) 70 % एवं ऊपर

80 % से कम – 04 अंक

(घ) 55 % एवं ऊपर

एवं 70 % से कम – 02 अंक

इस प्रकार शिक्षक पात्रता परीक्षा के अतिरिक्त अंक जोड़ने के बाद अभ्यर्थी का जो कुल अंक होगा वही उसका कुल मेधा अंक होगा।”

18. From a reading of the Rules quoted above, if the Bench mark is pushed up by award of 10 - 13 marks, then the weightage available to various candidates also gets pushed up. There is huge variance between a candidate who scores 90 per cent as well as a candidate who scores between 80-90 per cent. Those with 90 per cent and above will get 10 marks weightage for their performance in TET and those between 80-90 will get 6 marks. It can be well imagined as what will happen after 10 - 13 marks are awarded across the board. Candidates at the top will beget added weightage and those who may not be far behind will be left in the lurch which will create an imbalance in the merit list.

19. Some of the counsels of the petitioners, therefore, urge that the best option would be to delete the number of wrong questions irrespective of the recommendation of the committees as to award of marks and evaluate the answers on the left over correct questions. There shall not be any chaos and confusion because the evaluation will be done on true merits of reduced number of questions. That will be a uniform yardstick of testing the merit of all the candidates who participated in the examination and it will not create any bias in

favour of the candidates sitting at the top who will end up with more weightage or marks than they would have earned in TET examination. Reliance was placed by the counsel for some of the petitioners in a case reported in **2012 (1) PLJR 542**, which is the case of **Manoj Kumar Vs. State of Bihar**. It is the matter related to similar kind of wrong questions in an examination conducted by Bihar Public Service Commission for 52nd to 55th batch.

20. The counsels point out the observation of the Court made in para 18 to 20, which are reproduced herein below:

“18. A controversy of similar kind had once arisen way back in the case of Ganesh Prasad Yadav vs. State of Bihar, 1995(2) PLJR 170. The Division Bench after going into the details of the said dispute had opined as under:-

“36. No doubt, there are mistakes in the alternative answers or responses to the four questions, but on that basis it cannot be said that the Commission adopted any unfair means or acted in an unfair manner, on the other hand, the aforesaid mistakes appear to have been committed by the experts to whom the work of setting of questions and their suggestive answers was entrusted. It cannot be said that there was unfair treatment to the non-selectees in particular. All the candidates including the successful candidates have answered the same set of questions and in that view of the matter either all the candidates have suffered equally or took advantages of wrong suggestive answers. In that view of the matter, in spite of the aforesaid errors, in my view, it would not be proper to quash the preliminary test for the aforesaid defects”
(emphasis mine)

19. Similar is the situation in the present case as well. The advantage or disadvantage from a wrong question or a

wrong answer would be there against one and all because it cannot be said that successful candidates managed to hit the bull's eye with a correct answer even though the question was wrong or vice versa.

20. The Court therefore comes to a considered opinion that a fairer approach to the whole problem would be by permitting BPSC to carry out a fresh evaluation of all the answer sheets on the basis of their stand emerging from the opinion of the second expert group. If such an exercise is permitted then it will amount to a fair evaluation of all the candidates without giving any unfair advantage to either successful candidates or the unsuccessful ones because they will all be tested on a common platform. In fact this is one of the reasons why this Court is not willing to accept the submission of some of the counsel that as many marks should be added to all the candidates treating them as correct answers to the incorrect questions. Such an approach will make no difference to the final standing of the successful candidates whose results have been declared.”

21. Counsel representing the Bihar School Examination Board takes a stand that Bihar School Examination Board has decided to award as many marks to each and every candidates across the board, which is 10 marks for Paper-I and 13 for Paper –II. If such a position is taken then no prejudice is created either in favour or against. No doubt, it will raise the entry point or threshold because every body starts up with 10 and 13 marks. However, there are no clear answers to some of the anomalies which emerge by adopting such a procedure as noticed in the earlier part of the order.

22. There is more confusion in the evaluation as well because at one point of time marks was being awarded to only those candidates who have attempted those questions and not to others. This re-evaluation was done with a

stand that as many marks is given to all the candidates but those who have already been given marks with the above procedure will not be given extra marks but all will add up to 10 or 13 for the two papers etc. etc. The evaluations having been done and results having been published four times over is bound to create serious doubt on the fairness of the final result especially when there will be variance from first publication to the latest.

23. The Court, therefore, comes to a considered opinion that the only way to restore confidence and faith in the examination so held by the Examination Board would be to delete as many questions which are said to be 10 in Paper – I and 13 in Paper – II and evaluate the answer sheet of all the candidates with reduced number of correct questions. The publication of result after the above exercise will throw up the correct merit position of all the candidates with advantage or disadvantage to none, especially when it has already been noticed that this test also will have a bearing on the final merit as weightage is required to be given on the basis of performance in TET examination.

24. The stand of the learned senior counsel representing the Examination Board and the State is neither appreciated nor it is logical. Therefore, they are fit to be rejected.

25. There was an occasion for this Court to comment in the manner objections were readily accepted and the way so-called expert committee but that would unnecessarily divert and complicate the issue.

26. The Court directs the Examination Board to make a fresh evaluation of all the answer sheets of the candidates by deleting 10 questions in Paper-I and 13 questions in Paper –II. They shall declare the results on the basis of the above direction. Based on the said declaration, further exercise for appointment on the post of teachers for Urdu and Bangla will be carried out. It

will be in the interest of the State and the candidates that the matter is expedited.

27. The learned senior counsel for the Examination Board harped on the fact that another Coordinating Bench has already given approval to the modality adopted earlier in terms of Annexure-E.

28. The Court would have appreciated the above fact provided the Examination Board or the State Government stuck to a particular mode as well as declared the result without setting up committees after committees. Since they have not been consistent and this has led to a large number of litigations and filing of writ applications, this Court has no option but to opine as above to instill confidence in the candidates and the fairness in the conduct of examination.

29. All the writ applications with the diverse kind of prayers, therefore, are disposed of with the above directive with regard to declaration of results. In view of the above, the earlier results declared by the Examination Board will be of no avail and will be treated to have been annulled. The fresh result will be declared on the basis of deleted questions. The relief to other candidates, who wanted a direction for appointment on the basis of earlier result, therefore, is refused.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

U			
---	--	--	--