

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 17438 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 38759 OF 2016]

NIRMALA KUMARI & ORS.

Appellant(s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO. 17439 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 150 OF 2017]

CIVIL APPEAL NO. 17440 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 995 OF 2017]

CIVIL APPEAL NO. 17441 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 3555 OF 2017]

CIVIL APPEAL NO. 17442 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 3564 OF 2017]

CIVIL APPEAL NO. 17443 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 5755 OF 2017]

CIVIL APPEAL NO. 17444 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 5754 OF 2017]

CIVIL APPEAL NO. 17445 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 9775 OF 2017]

CIVIL APPEAL NO. 17446 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 10746 OF 2017]

CIVIL APPEAL NO. 17447 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 10480 OF 2017]

CIVIL APPEAL NO. 17448 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 12223 OF 2017]

CIVIL APPEAL NO. 17449 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 15315 OF 2017]

CIVIL APPEAL NO. 17450 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 19696 OF 2017]

CIVIL APPEAL NO. 17451 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 20703 OF 2017]

CIVIL APPEAL NO. 17452 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 22422 OF 2017]

CIVIL APPEAL NO. 17453 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 26690 OF 2017]

CIVIL APPEAL NO. 17454 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 26849 OF 2017]

CIVIL APPEAL NO. 17461 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 28927 OF 2017]
[DIARY NO. 24329 OF 2017]

CIVIL APPEAL NO. 17455 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 22833 OF 2017]

CIVIL APPEAL NO. 17456 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 23967 OF 2017]

CIVIL APPEAL NO. 17457 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 22836 OF 2017]

CIVIL APPEAL NO. 17458 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 26688 OF 2017]

CIVIL APPEAL NO. 17459 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 24065 OF 2017]

CIVIL APPEAL NO. 17484 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 29387 OF 2017]
[DIARY NO. 29100 OF 2017]

CIVIL APPEAL NO. 17464 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 28930 OF 2017]
[DIARY NO. 29877 OF 2017]

CIVIL APPEAL NO. 17460 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 28006 OF 2017]

CIVIL APPEAL NO. 17463 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 28929 OF 2017]
[DIARY NO. 31231 OF 2017]

CIVIL APPEAL NO. 17462 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 28928 OF 2017]
[DIARY NO. 32540 OF 2017]

J U D G M E N T

KURIAN, J.

1. The application(s) for impleadment/intervention is/are allowed.

2. Leave granted.

3. In all these cases, the Panchayat teachers are sought to be removed from service on the ground that they have failed to clear the evaluation test conducted by the State.

4. According to the learned counsel appearing for the appellants, as per the Bihar Panchayat Primary Teacher (Employment and Service Conditions) Rules, 2006 under which they were appointed, the evaluation test was intended only for the purpose of increment and there was no provision to terminate them from service in case they failed to secure the minimum prescribed marks in the evaluation test. However, as rightly pointed out by the learned counsel for the State, after the introduction of the Right to Education Act, 2009, the whole scheme of education, particularly at the primary level, has undergone a sea change. Post amendment, only a candidate who has passed the Teachers' Eligibility Test alone can be appointed, whereas under the 2006 Rules, even untrained candidates could be appointed as teachers. It is in that background that an evaluation test was made compulsory and the State also amended the rules

for weeding out the dead wood, after giving three chances.

5. No doubt, the evaluation test was originally intended for the purpose of increment, but we find from the rules that the teachers who were appointed prior to the introduction of the new Scheme are to be given training. It is not clear as to whether the appellants herein, who have been appointed prior to the introduction of the Right to Education Act, have been given the training before subjecting them to the evaluation test.

6. In L. Muthu Kumar and Another Vs. State of Tamil Nadu and Others reported in (2000) 7 SCC 618, this Court has referred to the need for appointment of qualified and trained teachers, in particular, at the primary stage. This Court, in many cases, has addressed the need for adequate training. The operative portion of the Judgment is reproduced as under :-

"14.....We are of the considered opinion that before teachers are allowed to teach innocent children, they must receive appropriate and adequate training in a recognised training institute satisfying the prescribed norms, otherwise the standard of education and careers of children will be jeopardised. In most civilised and advanced countries, the job of a teacher in a primary school

is considered an important and crucial one because moulding of young minds begins in primary schools. Allowing ill-trained teachers coming out of derecognised or unrecognised institutes or licensing them to teach children of an impressionable age, contrary to the norms prescribed, will be detrimental to the interest of the nation itself in the sense that in the process of building a great nation, teachers, and educational institutions also play a vital role. In cases like these, interest of individuals cannot be placed above or preferred to the larger public interest....."

7. Having heard both the parties, we are of the view that in order to give a quietus to the whole issue, it is only appropriate that the State is directed to subject the teachers, who have failed in the evaluation test for the third time, to a further training of six months. At the end of such six months, they shall be subjected to an appropriate evaluation test, prescribing minimum marks. Passing the evaluation test thus conducted, on completion of the training, would mean the successful completion of the training.

8. It is made clear that if any of the candidates fail to successfully complete the training as above, it will be open to the State to remove them from the

service.

9. In view of the above, these appeals are disposed
of.

No costs.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

New Delhi;
October 31, 2017.

ITEM NO.7

COURT NO.5

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 38759/2016

(Arising out of impugned final judgment and order dated 05-08-2016 in CWJC No. 10434/2016 passed by the High Court Of Judicature At Patna)

NIRMALA KUMARI & ORS.

Petitioner(s)

VERSUS

THE STATE OF BIHAR AND ORS.

Respondent(s)

(FOR EXEMPTION FROM FILING O.T. ON IA 2/2016
FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)
FOR INTERVENTION/IMPLEADMENT ON IA 94839/2017

WITH

SLP(C) No. 3555/2017 (XVI)

SLP(C) No. 3564/2017 (XVI)

SLP(C) No. 5755/2017 (XVI)

SLP(C) No. 5754/2017 (XVI)

SLP(C) No. 9775/2017 (XVI)

SLP(C) No. 10746/2017 (XVI)

(and IA No.95969/2017-impleading party and IA
No.95972/2017-EXEMPTION FROM FILING O.T. and IA
No.95978/2017-APPROPRIATE ORDERS/DIRECTIONS and IA
No.95981/2017-EXEMPTION FROM FILING O.T. and IA
No.109554/2017-impleading party)

SLP(C) No. 10480/2017 (XVI)

SLP(C) No. 12223/2017 (XVI)

SLP(C) No. 15315/2017 (XVI)

SLP(C) No. 150/2017 (XVI)

SLP(C) No. 995/2017 (XVI)

SLP(C) No. 20703/2017 (XVI)

(FOR ADMISSION and I.R. and IA No.53163/2017-CONDONATION OF DELAY
IN FILING SLP and IA No.53167/2017-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.53165/2017-DELETING THE NAME OF
RESPONDENT)

SLP(C) No. 19696/2017 (XVI)

(FOR ADMISSION and I.R. and IA No.49614/2017-CONDONATION OF DELAY
IN FILING SLP and IA No.49618/2017-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.49611/2017-PERMISSION TO FILE SLP and
IA No.49621/2017-DELETING THE NAME OF RESPONDENT)

SLP(C) No. 23967/2017 (XVI)

(FOR ADMISSION and I.R. and IA No.75699/2017-CONDONATION OF DELAY
IN FILING and IA No.75701/2017-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.75705/2017-APPLICATION SEEKING
PERMISSION TO BRING ON RECORD SUBSEQUENT EVENTS AND DOCUMENTS and

IA No.75708/2017-EXEMPTION FROM FILING O.T. and IA No.75700/2017-PERMISSION TO FILE SLP and IA No.75703/2017-DELETING THE NAME OF RESPONDENT)

Diary No(s). 32540/2017 ()

(FOR ADMISSION and I.R. and IA No.105845/2017-CONDONATION OF DELAY IN FILING and IA No.105848/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.105842/2017-PERMISSION TO FILE SLP/TP and IA No.105852/2017-DELETING THE NAME OF RESPONDENT)

SLP(C) No. 22422/2017 (XVI)

(IA No.72858/2017-CONDONATION OF DELAY IN FILING and IA No.72860/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.72851/2017-PERMISSION TO FILE SLP and IA No.72865/2017-DELETING THE NAME OF RESPONDENT)

SLP(C) No. 22833/2017 (XVI)

(FOR ADMISSION and I.R. and IA No.75715/2017-CONDONATION OF DELAY IN FILING and IA No.75718/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.75722/2017-APPLICATION SEEKING PERMISSION TO BRING ON RECORD SUBSEQUENT EVENTS AND DOCUMENTS and IA No.75723/2017-EXEMPTION FROM FILING O.T. and IA No.75717/2017-PERMISSION TO FILE SLP and IA No.75720/2017-DELETING THE NAME OF RESPONDENT)

SLP(C) No. 22836/2017 (XVI)

(IA No.74929/2017-CONDONATION OF DELAY IN FILING and IA No.74934/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.74988/2017-EXEMPTION FROM FILING O.T. and IA No.74932/2017-PERMISSION TO FILE SLP and IA No.74937/2017-DELETING THE NAME OF RESPONDENT and IA No.74963/2017-PERMISSION TO PLACE ON RECORD SUBSEQUENT FACTS [TO BE TAKEN UP ALONGWITH ITEM NO. 48 I.E. D.NO.24704/2017])

SLP(C) No. 24065/2017 (XVI)

(FOR ADMISSION and I.R.)

SLP(C) No. 26849/2017 (XVI)

(IA No.80134/2017-CONDONATION OF DELAY IN FILING and IA No.80135/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.80136/2017-EXEMPTION FROM FILING O.T.)

SLP(C) No. 26690/2017 (XVI)

(IA No.80652/2017-CONDONATION OF DELAY IN FILING and IA No.80655/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.80656/2017-EXEMPTION FROM FILING O.T. and IA No.80650/2017-PERMISSION TO FILE SLP/TP and IA No.80657/2017-DELETING THE NAME OF RESPONDENT)

SLP(C) No. 26688/2017 (XVI)

(IA No.81332/2017-CONDONATION OF DELAY IN FILING and IA No.81333/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.81330/2017-PERMISSION TO FILE SLP/TP and IA No.81336/2017-DELETING THE NAME OF RESPONDENT)

Diary No(s). 29877/2017 ()

(FOR ADMISSION and I.R. and IA No.98982/2017-CONDONATION OF DELAY IN FILING and IA No.98984/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.98980/2017-PERMISSION TO FILE SLP/TP and IA No.98987/2017-DELETING THE NAME OF RESPONDENT)

Diary No(s). 24329/2017 ()

(and IA No.98625/2017-PERMISSION TO FILE SLP/TP and IA

No.98630/2017-CONDONATION OF DELAY IN FILING and IA
 No.98633/2017-CONDONATION OF DELAY IN REFILING and IA
 No.98636/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
 and IA No.98640/2017-impleading party)

Diary No(s). 29100/2017 ()
 (FOR ADMISSION and I.R. and IA No.95513/2017-CONDONATION OF DELAY
 IN FILING and IA No.95519/2017-EXEMPTION FROM FILING C/C OF THE
 IMPUGNED JUDGMENT and IA No.95511/2017-PERMISSION TO FILE SLP/TP
 and IA No.95515/2017-DELETING THE NAME OF RESPONDENT)

Diary No(s). 31231/2017 ()
 (FOR ADMISSION and I.R. and IA No.103098/2017-CONDONATION OF DELAY
 IN FILING and IA No.103109/2017-EXEMPTION FROM FILING C/C OF THE
 IMPUGNED JUDGMENT and IA No.103107/2017-APPLICATION FOR SEEKING
 PERMISSION TO DELETE PROFORMA RESPONDENTS and IA
 No.103097/2017-PERMISSION TO FILE SLP/TP)

SLP(C) No. 28006/2017 (XVI)
 (IA No.100020/2017-CONDONATION OF DELAY IN FILING and IA
 No.100024/2017-EXEMPTION FROM FILING O.T. and IA
 No.100018/2017-PERMISSION TO FILE SLP/TP and IA
 No.100029/2017-DELETING THE NAME OF RESPONDENT)

Date : 31-10-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH
 HON'BLE MRS. JUSTICE R. BANUMATHI

Counsel for the
 parties

Mr. Rajnish Kumar Jha, Adv.
 Mr. Dhanmohan Mishra, Adv.
 Mr. Srikanth Dubey, Adv.
 Mr. Mahendra Kumar, Adv.

Dr. Monika Gusain, Adv.
 Mr. Abhinash Jain, Adv.

Mr. N. N. Jha, Adv.
 Mr. Anilendra Pandey, Adv.
 Dr. M. S. Verma, Adv.
 Mr. Mahendra Kumar, Adv.
 Ms. Divya Mishra, Adv.
 Mr. Shrikant Dubey, Adv.
 Ms. Poonam Seth, Adv.
 Ms. Ranjana Vohra, Adv.
 Ms. Shashi Singh, Adv.
 Mr. Deepak Goel, Adv.

Mr. Avinash Sharma, Adv
 Mr. Praveen Kumar, Adv.
 Mr. Karunakar Mahalik, Adv.

Mr. E. C. Vidya Sagar, Adv.
Mr. Manish Kumar, Adv.

Mr. Jitendra Kumar, Adv.
Mr. Alok Kumar, Adv.

Mr. Pardeep Gupta, Adv.
Mr. Parinav Gupta, Adv.
Ms. Mansi Gupta, Adv.
Mr. Moazzam Ali, Adv.
Dr. (Mrs) Vipin Gupta, Adv.

Mr. Bipin Kumar, Adv.
Mr. M. K. Chaudhary, Adv.
Mr. Prabhakar Thakur, Adv.
Mr. Ajay Kumar Talesara, AOR

Mr. Chandan Kumar Mandal, Adv.
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Mr. Tarun Thakur, Adv.
Mr. Gopal Jha, Adv.
Mr. Chandan K. Jha, Adv.

Mr. Abhijat P. Medh, AOR

Mr. Yadav Narender Singh, AOR

Mr. Abhinav Mukerji, AOR
Ms. Bihi Sharma, Adv.
Ms. Purnima Krishna, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The civil appeals are disposed of in terms of the signed
non-reportable Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)