# Lakshmi Narayan Yadav Vs State of Bihar

## Civil Writ Jurisdiction Case No. 22428 of 2013

**Court:** PATNA HIGH COURT

**Date of Decision:** March 28, 2016

**Acts Referred:**
Constitution of India, 1950 â€" Article 226

**Citation:** (2016) 4 PLJR 140

**Hon'ble Judges:** Mr. Shivaji Pandey, J.

**Bench:** Single Bench

**Advocate:** Mr. Bankey Bihari Singh, Mr. Sanjay Kumar and Mr. Sh.ailendra Prasad, Advocates, for the Petitioners; Mr. Shashi Shekhar Kumar Prasad, A.C. to S.C. - 13, for the Respondents

**Final Decision:** Allowed

## Judgement

Mr. Shivaji Pandey, J. (Oral)â€"Heard learned counsel for the petitioners and learned counsel for the State.

2. In the present case, the petitioners are instructors, claiming that they were members of Subordinate Education Services and the Government of

Bihar by its policy decision has merged the Subordinate Education Services with the Bihar Education service, Class-II.

3. As per the averments and the documents annexed with the writ petition the petitioners were appointed on the post of Physical Education

Instructors at different schools, which were under the Subordinate Education Service, Government of Bihar. The Sub-ordinate Education service

comprising of four branches namely S.E.S. Primary branch (male), S.E.S. teaching branch (male), S.E.S. teaching branch (female) and S.E.S.

youth service branch (mixed).

4. The Government constituted a Committee, which is popularly known as "Saran Singh Committee" to consider the service condition of the

employees of the State of Bihar and the said Committee has considered the case of employees engaged in the education department in the State of

Bihar and recommended that the persons who were in the Subordinate Education Service cadre should be merged with Bihar Education Service

Class-II. When the Government did not act on the basis of the recommendation of Saran Singh Committee, some of the employees have moved

before this Court in C.W.J.C. Nos. 12122 of 1998, 8189 of 1999 and 8679 of 2002 and this Court in Single bench directed the Government to

act on the basis of the recommendation of the Saran Singh Committee and merge the Subordinate Education Service to the Bihar Education

Service Class-II.

5. The Government was not satisfied with the view taken by the Single Bench, challenged the same in LPA No. 980 of 2000 & 998 of 2000, the

Division Bench of this Court has approved the view of the single Bench, but the Government did not accept the verdict of this Court, approached

the Hon''ble Supreme Court in S.L.P. No. 8987 of 2001 and 4938 of 2001, which were ultimately dismissed. Even than, when the Government

has not acted upon the direction of this Court, another round of litigation started through C.W.J.C No. 10867 of 2012 that ultimately became

L.P.A. No. 65 of 2003 and SLP No. 6450 of 2003 and 4466 of 2003. At all stages, the stand of the State was not approved and ultimately the

Government has implemented the report of Saran Singh Committee vide issuing Notification dated 07.07.2006 (Annexure-12). Some of the

teachers who are already in Bihar Education Service Class - II have raised a grievance that their seniority will be affected. Again the Government

de-merged the cadre by issuing Resolution dated 19.11.2007, which was issued in pursuance of the order passed in C.W.J.C. No. 1467 of 2006

and the judgment of the learned Single bench approved by the Division Bench in LPA No.418 of 2006, against that order, matter went to the

Hon''ble Supreme Court where the order of this Court and so much so decision of de-merger came under challenge. The Hon''ble Supreme Court,

after examining all the Notifications arrived to a finding that the action of the Government and the order of this Court were completely wrong and

the Government by Notification No. 687 dated 2.4.12013 withdrawn the order of de-merger.

6. In the present case, the petitioner is claiming that they were the part and partial of the Subordinate Education Service Cadre and after the

recommendation of the Saran Singh Committee they ought to have been merged with the Bihar education service class-II, but leaving aside their

case, only two branches i.e. S.E.S. Primary branch (male) and S.E.S. teaching branch (female) were merged and remaining two branches were left

in high and dry, in which one of the branch is S.E.S. youth service branch (mixed).

7. The emphasis has been given that they are also teachers imparting physical training. They are the part of the subordinate education service, they

cannot be deprived of the benefit which has been conferred to other branches, whereas the learned counsel for the State submits that the Saran

Singh Committee report was acted upon with regard to the persons who were engaged in teaching and the petitioners were never treated as

teaching staff and as such the question of their merger does not arise.

8. Learned counsel for the State further submits that in the year 1993, the services of the petitioners were transferred to the Art and Cultural

department and from there some of the petitioners have superannuated and as such the claim of the petitioners for the merger in terms of the

recommendation of the Saran Singh Committee is misconceived not required to be considered.

9. It appears that the petitioners had approached this Court in C.W.J.C. No. 14630 of 2006 and this Court vide order dated 19.09 2007,

disposed of the matter with a direction to consider the case of the persons who were discharging the duty as physical education instructors and

take a final decision within a period of six weeks from the date of submission of the representation. It appears that the Director-cum - Additional

Secretary vide his memo no. 3352 dated 09.09.2014 passed a reasoned order, thereby rejected the claim of the petitioners.

10. Learned counsel for the petitioners submits that the authority has not taken care to consider what was the issue involved for consideration,

quoted some earlier facts in the impugned order and without application of mind rejected the same.

11. Learned counsel for the state has not pointed out any wrong in the submission raised by the learned counsel for the petitioners.

12. From perusal of the order it appears that though the authority has narrated facts relating to merger and de-merger, but has not dealt with the

real issue whether the services of the petitioners are to be merged with the Class - II Education Service and whether they are covered under the

Saran Singh Committee.

13. In such view of the matter, the order dated 08.09.2014 is hereby quashed. The matter is remanded back to the Director-cum-Additional

Secretary, to examine the case of the petitioners and pass a reasoned order within a period of three months from the date of receipt/production of

a copy of this order.

14. With the aforesaid observations and directions, this writ petition is allowed.