

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2029 of 2014

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Bhup Narayan Mishra Son Of Late Deokant Mishra Resident Of Village-
Rahimpur Rudauli, P.O.- Birampur Bande, P.S.- Samastipur Mufassil,
District- Samastipur At Present Posted As Science Teacher In Rameshwar
Bhawan, Sanskrit Uchcha Vidyalaya, Haripur Dihtol, P.S. Kaluahi, District-
Madhubani

.... Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of
Education, New Secretariat, Patna
2. The Special Director, (Secondary Education), Department Of Education,
New Secretariat, Patna
3. The District Education Officer, Madhubani, District- Madhubani
4. The Bihar Sanskrit Shiksha Board, East Boring Canal Road, Through Its
Chairman
5. The Chairman, Bihar Sanskrit Shiksha Board, East Boring Canal Road,
Patna
6. The Secretary, Bihar Sanskrit Shiksha Board, East Boring Canal Road,
Patna
7. The Managing Committee, Rameshwar Bhawan, Sanskrit Uchcha
Vidyalaya, Haripur Dihtol, P.S. Kaluahi District Madhubani Through Its
Secretary
8. The Headmaster, Rameshwar Bhawan Sanskrit Uchcha Vidyalaya
Haripur Dihtol, P.S. Kaluahi, District Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durga Nand Jha

For the Respondent/s : Mr. Sc-11 A.Kumar

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 04-11-2015 Heard learned counsel for the parties as with regard to the
following relief prayed in this writ application:

“(i) Issuance of an appropriate writ in the nature of
mandamus directing and commanding the respondents to
pay the due salary of petitioner from 1.4.1989 till date
with adequate amount of interest in pursuant to order of
the Special Director (Secondary Education), Govt. of
Bihar dated 16.7.2013 passed in Appeal No. 02/2012.

(ii) Issuance of an appropriate direction to respondents 1

and 2 to release the adequate fund for payment of due salary to petitioner as the authority of the state has himself found petitioner entitled to his due salary (w.e.f. 1.4.1989) while deciding the claim of petitioner in Appeal No., 02/2012.

(iii) Issuance of an appropriate holding and declaration that once the order dated 30.8.2007 passed by the Chairman of the Board rejecting the claim of payment of salary has been set aside and service of petitioner has been held as continuous from the date of his appointment by the special Director (Secondary Education) there appears no justification not to pay the admitted due salary of petitioner particularly when the order of Special Director has not yet upset by any higher court.

(iv) Issuance of further holding that once the post held by petitioner is duly sanctioned by the Government and even said post has been shown within Manak Mandal in ordinance dated 18.12.89 whereunder school in question was taken over and specific order has been passed for payment of his salary, there appears no justification to withhold the due salary of petitioner without any rhyme and reason.”

This Court having found that there was some sort of dispute with regard to payment of salary of the petitioner, who claims to be a teacher in Rameshwar Bhawan Sanskrit Uchcha Vidyalaya, Haripur Dihtol in the district of Madhubani had issued notice to the Managing Committee through its Secretary and the

Headmaster of the said school.

Today Mr. Ritesh Kumar has appeared on behalf of the Headmaster and has taken a stand that the petitioner has never worked in the school even for a single day.

Learned counsel for the petitioner at this stage comes out to say that when the issue has already been decided by the Special Director as with regard to legality and correctness of appointment of the petitioner and is entitled for payment of salary, the Managing Committee including its Secretary and the Headmaster cannot take a contrary stand.

In the considered opinion of this Court the matter relating to payment of salary of a recognized High School is not confined between the officials and the employee concerned of the school. It is the question of payment of public fund and if the employer of the petitioner has come out with a specific stand that at no point of time the petitioner had worked in the school even for a single day, this Court would find it difficult to issue direction for payment of such salary.

Nonetheless as there seems to be a dispute between the petitioner and the management of the school including its Secretary and the Headmaster this Court would direct that a Committee of following three persons, namely,

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- (i) Special Director, Sanskrit Education
 - (ii) Secretary, Bihar Sanskrit Shiksha Board
 - (iii) District Education Officer, Madhubani

shall hold an enquiry and if necessary also visit the school and examine all the records which may be produced by the petitioner as well as the Managing Committee including its Secretary and the Headmaster of the school and will submit its recommendation to the Principal Secretary of the Education Department within a period of six months from the date of receipt of this order, who shall take final decision either with regard to entitlement or otherwise of payment of salary of the petitioner after supplying a copy of the report to the petitioner and also affording opportunity to him before passing such order.

It is made clear that if the petitioner establishes his case of being employed and working in the school his entire payment of salary withheld shall be paid forthwith because all the three authorities concerned are represented in this Committee, namely, State Government through Special Director, Sanskrit Education, Bihar Sanskrit Shiksha Board through its Secretary and the Drawing and Disbursing authority, namely, District Education Officer, Madhubani. If, on the other hand, the Committee finds the petitioner not entitled for payment of salary on account of his

having never worked in the school it shall also record its finding so that the petitioner, if necessary, may seek judicial review against the aforesaid decision taken by the Committee.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

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