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IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3256 of 2015

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Lakshmi Narayan Chaudhary Son of Late Bachol Chaudhary resident of village - Uttra, P.S. Saharghat, District – Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Programme Officer (Establishment), Madhubani
5. The District Provident Fund Officer, Madhubani .

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur-2, Adv

For the Respondent/s : Mr. SC4- Md. R. Haque

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

2 09-03-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads as follows:-

> *"That this is an application for issuance of a writ in the nature of mandamus commanding and directing the respondents to pay the dues amount of retirement benefits such as Provident Fund Amount deducted before 1976 with interest admissible for provident Fund Amount under rules and or to pass any other order/orders, direction/directions for which the petitioner is entitled to under the facts and circumstances of the case."*

Learned counsel for the petitioner has submitted that though the School of the petitioner was taken over in the year 1976 w.e.f. 01.01.1971 in terms of Section-4 of Bihar Non-Government Elementary School (Taking Over Control), Act 1976, the payment of provident fund for the period prior to taking over has not been made and the sum of Rs. 1440.25/- is still payable along with its statutory interest. In this regard, he has cited the example of Chandeshwar Prasad Thakur by referring to the order of this Court dated 20.05.2010 in C.W.J.C No. 8990 of 2010 and the consequential order of the District Provident Fund Officer, Madhubani.

In the considered opinion of this Court, the liability of payment of provident fund on the Government or its officials can only be fastened if such deduction of provident fund from the salary of the petitioner was made and deposited in the fund of the Government.

As a matter of fact when the petitioner himself explains that the deduction of the amount of provident fund started in the year, 1976 after the School was taken over by the State Government, it would become clear that the earlier deduction allegedly made from the salary of the petitioner on the head of provident fund and its being deposited in the Post Office was not the look out of the Government. The School of the petitioner being private School and if such deduction was made from the salary of the petitioner and deposited in any Post Office account, the same cannot be realised the Government or its officials.

The reliance of counsel of the petitioner on the example of Chandeshwar Prasad Thakur by referring to the order of this Court dated 20.05.2010 passed in C.W.J.C No. 8990 of 2010 is also wholly misplaced, inasmuch as, nothing was decided by this Court in its order dated 20.05.2010, save and except only liberty was given to the petitioner of that case to file a representation.

In that view of the matter, this Court will not be in a position to issue any direction for payment of amount of provident fund to the petitioner which was allegedly deducted from the salary of the petitioner while the School was under control of the private Managing Committee. Nonetheless, if the petitioner feels that he can find out the status of amount on his own, he may represent his case before the District Provident Fund Officer, Madhubani for payment of aforementioned amount but then the liability of payment of such amount on the Government or its officials allegedly deducted from the salary of the petitioner prior to the School being taken over and deposited in the Post Office account would only arise if such amount has been received by the State Government or its officials.

The petitioner therefore, may represent his case but then the authorities must keep in mind that the liability of payment on Government and its officials will be only if there was a proper accounting of the amount of provident fund by its being deposited in the Government account.

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

(Mihir Kumar Jha, J)

Ranjan/-

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