

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7551 of 2014

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1. Rajesh Kumar, S/o- Late Shri Nand Kishore Prasad, R/o- Near, G.D.S. Hostel Krishna Ghat Patna- 5, P.O.- Patna University, District, Patna, at present working as Peon in Bihar Bangla Academy, Shastri Nagar, Patna- 23

2. Pradip Basak, S/o- Late Sri Sudhana Lal Basak, Flat No.-1, 2nd floor Kazipur, Naya Tola, Patna- 4, P.S.- Kadam Kua, District- Patna, at present working as Peon in Bihar Bangla Academy, Shastri Nagar, Patna- 23

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna

2. The Special Secretary, Education Department, Government of Bihar, Patna

3. The Director (Higher Education), Education Department, Government of Bihar, Patna

4. The Deputy Director (Higher Education), Government of Bihar, Patna

5. The Chairman, Bihar Bangla Academy, 744/800 Shastri Nagar, Patna- 23.

6. The Director-Cum-Secretary, Bihar Bangla Academy 744/800 Shastri Nagar, Patna- 23.

7. The Assistant Director, Bihar Bangla Academy, Patna

8. The Treasurer, Bihar Bangla Academy, 744/800 Shastri Nagar, Patna- 23.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anirban Kundu

For the Respondent/s : Mr. Rajiv Roy

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 16-02-2015

Heard learned counsel for the parties.

Having regard to the fact that the petitioner is an employee of Bangla Academy and Bangla Academy is private body registered under the Society Registration Act, a writ petition against the order of the Chairman of Bangla Academy either reducing the salary of the petitioner or stopping salary of the petitioner will not lie before this Court because such Bangla

Academy is not a State within the meaning of Article 12 of the Constitution of India.

Mr. Chittranjan Sinha, learned Senior counsel for the petitioner, submits that earlier a writ petition was held to be maintainable vide the order dated 3.9.2010 in C.W.J.C.No. 7691/2010 (Bishwanath Dev vs. the State of Bihar & ors.).

This Court has carefully examined the issue involved therein and actually the relief sought therein was against the State of Bihar in not releasing the grant. No action of Bangla Academy or its Chairman was questioned and this Court in fact after making enquiry from the learned counsel for the State with regard to release of fund had directed for such payment being made to the employee of Bangla Academy. The order of this Court in Bishwanath Dev (supra), therefore, is not an authority that the order passed by the Chairman of Bangla Academy shall be amenable under writ jurisdiction.

The State or the Education Department when he has recognized certain academy of literature it may have certain obligation against those academies in the matter of release of fund but then the employees appointed by the Academy do not become the Government servant much less claim protection under Article 226 of the Constitution of India against the order and the action

taken by them of such Academies.

In that view of the matter, the remedy for him against any action of the Chairman of Bangla Academy was only before the appropriate civil court. This application is wholly misconceived and ill-advised and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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