

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10288 of 2015

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Manoranjan Singh, son of Late Rameshwar Singh, resident of village & P.O.- Fatehpur, P.S.- Didarganj, District- Patna- 803201

.... Petitioner/s

Versus

1. The State of Bihar represented through the Principal Secretary, Human Resources Department, Govt. of Bihar, Patna
2. Bihar School Examination Board, (Higher Secondary) through its Chairman, Budha Marg, Patna
3. Jyoti Kunwar College, through its Principal at & P.O.- Fatehpur, P.S.- Didarganj, District- Patna- 803201
4. The Managing Committee, Jyoti Kunwar College, Fatehpur through its Secretary at & P.O.- Fatehpur, P.S.- Didarganj, District- Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No.10292 of 2015

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1. Kanhaya Singh @ Kanhaiya Singh Son of Late Chandrika Singh, resident of Mohalla- Nai Bazar, P.O.- Chapra, P.S.- Bhagwan Bazar, District- Chapra (Saran)
 2. Sunil Prasad Singh Son of Late Prabhunath Singh, resident of village- Gyashpur, P.O.- Rasulpur, P.S.- Amnour, District- Chapra (Saran)

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, New Secretariat, Patna
2. The Director Secondary Education, Human Resources Development Department, New Secretariat, Patna
3. The Deputy Director Secondary Education, Human Resources Development Department, New Secretariat, Patna
4. The Bihar School Examination Board (Senior Secondary), Budh Marg, Patna through its Secretary
5. The Chairman, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna
6. The Secretary, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna
7. The Ad-hoc Managing Committee, Shankar Dayal Singh College, Chapra, P.O.- Chapra, P.S.- Chapra Town, District- Saran, through its Concener
8. The Convener-cum-Sub-divisional Officer, Sadar Chapra, Ad-hoc Managing Committee, Shankar Dayal Singh College, Chapra, P.O.- Chapra, P.S.- Chapra Town, District- Saran
9. The Principal, Shankar Dayal Singh College, Chapra, P.O.- Chapra, P.S.- Chapra Town, District- Saran

.... Respondent/s

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Appearance :

(In CWJC No.10288 of 2015)

For the Petitioner/s : Mr. Durgesh Pd. Sinha, Advocate.

For the Respondent/s : Mr. Awanish Nandan Sinha, GP-11
(In CWJC No.10292 of 2015)

For the Petitioner/s : Mr. Praveen Prabhakar, Advocate.

For the Respondent/s : Mr. D.K. Prasad GP-7

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 28-07-2015

Heard learned counsel for the parties.

2. Having regard to the fact that the petitioners in both the cases are admittedly employees of a private institution which are not 'State' within the meaning of Article 12 of the Constitution of India and their any step for seeking direction from this Court for payment of salary must be and is hereby rejected.

3. Irrespective of such rejection of their claim by this Court, at this stage, only on account of their employer being not amenable to writ jurisdiction, it must be made clear that they will not be without any remedy inasmuch as now the State Government has framed statutory rules namely Bihar State School Teachers and Employees Disputes Redressal Rules, 2013 dated 20.12.2013, Rule 13 whereof reads as follows:

- 13: Power and functions of the District Appellate Authority:*
(1) The appellate authority shall hear and dispose the complaints/appeal related to employment of Niyojit teachers, librarians and other Niyojit functionaries of Government /Nationalised elementary, secondary and higher secondary schools (including government aided/minority schools). It shall also hear and dispose the disputes/appeals related to their service conditions. It shall also dispose the disputes of headmasters, teachers and other functionaries of private aided schools related to their services and distribution of grant received from the State Government.
(2) The office of the appellate authority shall maintain properly all types of documents related to complaint/appeal.
(3) All types of complaints/appeals shall be filed before the

Appellate Authority within 30 days from the date of its occurrence. The Authority may condone the delay in filing the complaint/appeal within is received by the Authority after 30 days on reasonable grounds.

(4) The District Appellate Authority, while enquiring into any matter and hearing into any matter, have the same powers as are vested in a civil court while trying in a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce documents and things;

(b) Requiring the discovery and inspection of documents;

(c) Receiving evidence on affidavit;

(d) Issuing summons for examination of witnesses or documents;

4. As would be evident even in respect of employees of private schools who are receiving their salary by way of grant-in-aid from the Government, the issue of their payment of salary has to be decided initially by the aforementioned appellate authority. Thus, the petitioners' remedy before the appellate authority would not be adversely affected on account of rejection of their prayer in these writ applications.

5. When such an observation has been made, learned counsels for the petitioners have sought permission to withdraw both these writ applications in order to enable the petitioners to move before the competent appellate authority.

6. That being so, both these writ applications are permitted to be withdrawn with the aforementioned liberty.

(Mihir Kumar Jha, J)

Sujit/-

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