

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14161 of 2012

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1. Rita Devi Wife Of Late Shayam Narain Prasad R/O Village - Uprora, Post Muraura, P.S. Biharsharif, District Nalanda, Presently Residing At 412 Late Ram Karan Paswan, Village Tineri, P.O. Nadaul, P.S. Masaurhi, District – Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Now Education Department, Government Of Bihar, Patna
3. The District Programme Officer (Establishment) Nalanda
4. The Director, Primary Education, Human Resource Development Department, Government Of Bihar, Patna
5. The District Education Officer, Nalanda
6. The Secretary , State Election Commission, Bihar, Patna
7. The Director Panchayati Raj Department, Government Of Bihar, Patna
8. The Assistant Director Panchayati Raj Department, Government Of Bihar, Patna
9. Anusharawan Padadhikari, Panchayati Raj Department, Government Of Bihar, Patna
10. The District Election Officer (Panchayat)-Cum-District Magistrate, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. VIKAS KUMAR

For the Respondent/s : Mr. RADHIKA RAMAN GP23

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 04-12-2015

Heard the Counsel for the petitioner and the State.

Counter affidavits on behalf of respondent nos. 5 and 10 and respondent nos. 2 to 4 have been filed. The petitioner has filed a supplementary affidavit bringing on record copy of the resolution dated 20.01.2005 issued by the Government of Bihar in the Department of Finance providing ex-gratia payment in the sum of Rs. 10 lacs to the employees who died in course of discharge of the election duties.



The husband of the petitioner was a teacher in Government School. He was provided the election duty by the respondents. On the date of poll i.e. 18.4.2011, he died in a road accident. F.I.R. (Annexure-3) was accordingly lodged under sections 279, 337, 338 and 304(A) of Indian Penal Code. The post mortem was carried out on the cadaver. Since the husband of the petitioner had died in course of election duty, the petitioner raised a claim for payment of ex-gratia amount. Annexures-5, 6 and 7 are the diverse communications between the two officers of the government. Annexures-8, 9 and 10 are again the communications between the two departments indicating that the payment of the ex-gratia amount, in the attending facts of the case, was not disputed but who shall pay the amount was the question to be examined. The petitioner has drawn attention of the Court to the communication dated 15.5.2012 (Annexure-11) issued by the District Election Officer-cum-District Magistrate wherefrom it appears that the payment of ex-gratia amount is to be paid by the Education Department of the Government since the husband of the petitioner was the employee of the Education Department.

I have gone through the counter affidavits filed on behalf of the two sets of respondents. Paragraph 6 of the counter affidavit of respondent nos. 5 and 10 clearly admits the death of the husband of the petitioner in course of discharge of election duty. The request for

payment of the ex-gratia amount was made before the Human Resources Department of the Government (now Education Department).

In the counter affidavit filed on behalf of respondent nos. 2 and 4 affirmed by the Director, Primary Education, Government of Bihar, Patna, it has been stated that there were two claimants, one, the mother of the deceased and another being the writ petitioner (wife of the deceased). Mr. Kumar has submitted that the claim of the mother has already been rejected by the Government as well as by this Court in a writ petition filed by her. The petitioner is now the only claimant.

On going through the materials on record, it appears to this Court that the ex-gratia payment payable to the petitioner, being the wife of the deceased, is not much in dispute. The matter has been shuffling between one department to another to ascertain which department shall make the payment. According to the District Magistrate as also the petitioner herein, the Education Department shall make the payment.

Counsel for the State, in view of the pleadings on record, is unable to controvert the stand of the petitioner.

Considering the above, this Court disposes of the writ petition by directing the Principal Secretary to the Government in the Department of Education to examine the grievance and ensure that

payment of ex-gratia amount is made in favour of the petitioner within a maximum period of six weeks from today. Which department shall make payment is of not much relevance. Ultimately, it is the State Government who shall make the payment in view of the resolution of the government dated 20.1.2005 issued by the government in the Department of Finance.

I order accordingly.

(Kishore Kumar Mandal, J)

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