

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.923 of 2014

In

Civil Writ Jurisdiction Case No. 4862 of 2011

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1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Bihar, Patna
3. The Director, Secondary Education, Bihar, Patna
4. The Deputy Director, Education, Bihar, Patna
5. Regional Deputy Director (Education), Bhagalpur
6. District Education Officer, Banka
7. The three-man Committee, Human Resources Development Department, New Secretariat, Patna constituted in view of the Judgement and order dated 03.01.2006 passed in Civil Appeal No. 6625-6675 of 2001 by the Hon'ble Supreme Court through its convener Sri Anop Kumar Sinha
8. Sri Anop Kumar Sinha, son of not known, three-men Committee (The Respondent No. 7) Deputy Director, Human Resources Development Department, New Secretariat, Patna the then Secretary, Bihar School Examination Board, Patna- 17

.... Appellants

Versus

Anil Singh, son of Bateshwar Prasad Singh, Resident of Village- Nandlal Patti, P.O.- Sultanpur, P.S.- Amarpur, District- Banka, at present working as Assistant Teacher, Project Girl's High School, Chandan, Banka

.... Respondent

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Mandal, S.C.3
Mrs. Neelam Kumari, A.C. to S.C.3
Mr. Bipin Kumar, A.C. to S.C.3
For the Respondent/s : Mr. S.N.P. Sinha, Senior Advocate
Mr. Indeshwari Prasad Mandal

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

17 23-12-2016 Heard learned counsel for the State-appellant and
learned counsel for the sole respondent.

The appeal is directed against the order dated



20.09.2013 passed by a learned single Judge of this Court in C.W.J.C. No.4862, by which the writ petition was allowed with the direction to the Director, Secondary Education, Bihar to take a decision within three months from the date of production of a copy of the order as to how the school in question has to be funded and ensure that adequate funds are made available for the teaching and non-teaching staff of the school concerned.

The writ application itself was filed by the respondent claiming to be an assistant teacher in the Project Girls High School, Chanan, District-Banka. In the writ application, the petitioner for himself and on behalf of the teaching and non-teaching staff of that school claimed for payment of salary, etc. from the State.

The stand of the State was that the school in question is not a Project Girls High School, although it is managed by the State.

On the pleadings of the parties, it was found by the learned single Judge that there was a decision in the year 1984-85 to open a Project Girls High School at Chanan in the district of Bhagalpur (now in Banka district). A Three Man Committee had also been formed and the school building had ultimately been constructed from the Government funds under the Rural Landless



Employment Guarantee Programme (R.L.E.G.P.). It was also found that the list of teachers, their date of appointment, educational qualification, etc. have been stated in the letter dated 18.05.2009 of the Regional Deputy Director of Education, Bhagalpur to the Director, Secondary Education. In an earlier notification issued on 19.02.2008 by the Human Resources Department, the school was also found at serial No.165 out of 210 schools which had been selected pursuant to the orders of the Apex Court.

For the said reasons, the learned single Judge came to the conclusion that the Government is obliged to make payment to the teachers and it is immaterial to say that the school in question is not a Project School strictly; it is a school established by the State and is under the control of the State.

In an affidavit filed on 30.11.2016, wrongly stated as a counter affidavit, on behalf of the District Education Officer, it is admitted that one peon and clerk (non-teaching staff) have been appointed by the Government and now they are working, although it is asserted that no teaching staff/teacher has been appointed in the said Project Kanya High School.

The factum of appointment of the clerk and the peon in the school shows that the school in question is one which is run by



the Government, no matter whatever had been the position with regard to the appointment of the teachers. It is also not in dispute that the school itself has been constructed from public funds.

In the said circumstances, there can be no occasion for the appellants to deny the benefit of salary, etc. to the teachers, whose names also find a place in the list of 2009 of the Director, Secondary Education as referred to above.

Thus, for the aforesaid reasons, we see no reason to interfere with the order of the learned single Judge.

The appeal is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Arun Kumar, J)

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