

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.791 of 2015

1. Subhash Chandra Jha, Professor Mithila Sanskrit Research Institute, Kabraghat, Darbhanga at present posted as Principal, on deputation in DIET, Quilaghat, Darbhanga S/o Pt. Surya Narayan Jha R/o - Ladari, P/O SamailaLalganj, PS - Keoti Distt- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna 800001.
2. The Principal Secretary, The department of Education, New Secretariat Building, Patna-800015.
3. The Director, Administration cum under secretary, Human Resource Development Department, now known as Education Department SEcretariat, Patna.
4. The Accountant General, Bihar Mahalekhakaar Bhawan, R.Block, Patna.
5. The Director, Mithila Institute of Post Graduate Studies & Research in Sanskrit Learning (Mithila Sanskrit Sodh Sansthan),Darbhanga.
6. The Superintendent of Education, Education Department Darbhanga.
7. The Director, Higher Education, Education Department, New Secretariat, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravi Shankar Ganguli

For the Respondent/s : Mr. Jai Prabhat Kishore, AC to GP 13

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
CAV JUDGMENT

Date: 5-05-2016

Petitioner is supposed to be the Principal of District Institute of Educational Technology,(in short known as DIET). He wants a declaration through the present writ application that the post which he is holding is equivalent to a Class I post under the Bihar Education Service as also to give a direction to extend to him all the benefits which are available to the holders of such Class I post under Bihar Education Service.

2. From the pleadings available in the writ application,



petitioner joined as a Primary Teacher in the district of Darbhanga on 6.7.1988. His appointment was done in terms of Annexure- 1 series. On 25.10.1996, petitioner joined the State Institute of Education Technology (SIET), located at Khabraghat as Lecturer (Production), an autonomous body.. The said joining of the petitioner was facilitated on the basis of a decision taken by the District Superintendent of Education and the consequential order contained in Annexure- 2 series. Petitioner had earlier also approached the Court with regard to the kind of pay scale which he was entitled to while working in SIET. After some time, vide notification no.532 dated 10.4.2007, petitioner was posted as a Professor in what is known as Mithila Sanskrit Post Graduate Education and Research Institute at Kabra Ghat in the district of Darbhanga. Petitioner joined the said post on 16.4.2007. From Mithila Sanskrit Post Graduate Education and Research Institute petitioner was made Principal of DIET, which is located at Khabraghat in Darbhanga.

3. While being posted at DIET in Darbhanga, it is said that the petitioner needed major surgery at Medanta Hospital. Petitioner made an application for medical leave before the Director, (Administration). Even the office of Accountant General advised the Director, Administration for approval of such leave but the Director instead of granting such leave, demanded the details of service and



C.R. from diverse sources. Petitioner had also raised issue of grant of ACP, besides medical leave etc. but the respondent authorities despite several exchange of communications and letters have not cared to take a decision on one pretext or the other. It is in this background that a direction has been sought by the petitioner to treat the petitioner as holder of a Class I post under Bihar Education Service and allow him all the benefits.

4. A counter affidavit has been filed on behalf of respondent no.3 i.e. Director (Administration) in the Department of Education. He takes a plea that though the petitioner did enter service on the post of a Primary Teacher but he was relieved to join yet another organization known as SIET in another capacity and post. The learned counsel representing the State submits that when the petitioner joined SIET, it was an autonomous organization funded by Government of India and obviously the petitioner gave up his status as a Primary Teacher for better prospect under the said autonomous organization. Subsequently, the Central Government informed the State Government that they will be no longer funding the said institution. The governing body of SIET decided on 15.3.2007 to dissolve SIET under Rule 13 of the Societies Registration Act. The assets and liabilities of the said organization was put under the State council for Educational Research and Training. Since SIET was



dissolved on 15.3.2007, the State Government decided to absorb the services of the employees for the sake of payment of salary against sanctioned vacant post of Bihar Education Service Grade I post but that by itself does not mean that petitioner was made part of the cadre of Bihar Education Service or a state employee. There is specific rule which governs such induction or promotion in the Bihar Education Service.

5. Even the present dispensation where the petitioner is working it is an independent body or organization. No claim as such for declaration of the petitioner as an employee of the Bihar Education Service Class I can be accepted under the chequered career of the petitioner. However, the Director, Higher Education is seeking the details of the petitioner from SIET as well as Mithila Institute of Post Graduate Studies and Research in Sanskrit Learning, Darbhanga.

6. In the circumstances stated above with no clear evidence of the petitioner being a government servant, the demand for his declaration as an employee under the Bihar Education Service would be too premature for this Court to declare. However, the Court does give a direction upon the Director, Higher Education, Government of Bihar in terms of their communication dated 11.3.2016 that a decision on the status of the petitioner keeping in mind his history of the service under various diverse organizations

would be taken, preferably within a period of three months from the date of production of a copy of this order.

Writ application is disposed of with the above direction.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	NAFR
CAV DATE	28.3.2016
Uploading Date	05.5.2016
Transmission Date	