

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8742 of 2013

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Imamuddin, Son of Mubarak Ali, resident of Village-Kayasth Bhauara, P.S. Krakat (Gorari), Distict - Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Commissioner - Cum - Secretary, Department Of Primary, Secondary And Adult Education (Human Resources Development Department), Government Of Bihar, Patna
2. The Director, Primary Education, Department Of Primary, Secondary And Adult Education, Government Of Bihar, Patna
3. The Joint Secretary, Primary Education, Department Of Primary, Secondary And Adult Education, Government Of Bihar, Patna
4. The District Education Officer, Rohtas
5. The Block Education Officer, Rajpur, District - Rohtas (Rajendra Ram)
6. The Block Development Office, Rajpur, District - Rohtas

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. R.N. Mukhopadhyay, adv.

: Mr. Nazir Ansari, adv.

For the Respondent/s : Mr. Mritunjay Kumar, A.C. to AAG-10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-06-2016

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. In this case, the petitioner is seeking arrears of salary from February, 2012 till the date of filing of the writ application and claimed that he should be allowed to function against the post of Block Assistant Teacher.

3. The petitioner after passing Matriculation and Intermediate has enrolled himself in All India Taleem Ghar,



Lukhnow for Urdu Teacher Training. After completing the same, certificate was granted to him on 9.9.2008. On the strength of that certificate the petitioner made an application for appointment of Block Teacher against the vacancy meant for the Urdu Teacher, the certificate was sent for verification on 25.01.2011, which was verified and confirmed vide letter dated 01.10.2011. After verification of the certificate, petitioner was sent for one month's training on 24.11.2011, which he has completed.

4. The claim of the petitioner that he was discharging the duty to the satisfaction of all, but illegally the respondents have stopped his salary from February, 2012. After superannuation of regular headmaster, the petitioner was given the additional charge of the Headmaster on 08.04.2012, accordingly Rs.2,00,000/- was credited to his account for the construction of the school building. As no construction was done, he returned an amount of Rs.1,55,000/- and requested the authority for adjustment of rest amount i.e. Rs.45,000/- against his due salary.

5. As per the claim of the petitioner, the Government vide Resolution dated 9.5.2012 decided the status of India Taleem Ghar, Lucknow as unrecognized institution as it has not been recognized by the N.C.T.E. Act and any degree issued by that institution after

the implementation of N.C.T.E. Act, 2005 has no value in the eye of law and accordingly, the degree by India Taleem Ghar, Lucknow was declared to be invalid.

6. Learned counsel for the petitioner submits that the Government has taken a decision in the year 2012, before that the petitioner was considered to be legally appointed and therefore, he should be allowed to continue in service, as after the amendment in Bihar Panchayat Primary Teachers (Appointment and Service Condition) Rules, 2006, such stipulation is not there in 2008 amendment of 2006 Rule, and as such, the petitioner should be allowed to continue in service, but the fact remains that this Court is not required to go into the question with regard to continuation of service or to allow him to join the service as the prayer of the petitioner is only confined to granting the salary from February, 2012 onwards.

7. From the counter affidavit filed by the State, it appears that the Government vide Resolution dated 09.05.2012 declared that the qualification obtained from the India Taleem Ghar, Lucknow cannot be recognized, reason has been assigned that the institution was not in the list of N.C.T.E. and so much so that the letter dated 09.10.2015 attached with the counter affidavit itself shows that the



petitioner has been paid the salary upto February, 2012 and thereafter he absented himself from February, 2013 till date, which has been disputed by the learned counsel for the petitioner and submitted that though he had gone for medical leave but after nine months again he had gone to join the institution, but the authority refused to allow him to join the post. It has been mentioned in the letter dated 09.10.2015 that he has illegally withdrawn an amount of Rs.2,00,000/- and when pressure was made upon him he returned an amount of Rs.1,55,000/- and still Rs.45,000/- is outstanding dues standing to his credit. The said letter mentions, first he must return Rs.45,000/- along with interest, thereafter, whatever the outstanding amount which he will be entitled would be paid to him.

8. Having considered the rival contentions of the parties, it is admitted fact that the petitioner was appointed as Urdu Teacher and later on the Government decided that the degree possessed by the by the petitioner cannot be the basis for allowing him to continue in the service on account of the fact that the institution from which he obtained the degree was not in the list of N.C.T.E.. This is the executive decision of the State, which falls within their domain. If the State Government has taken a decision that the degree obtained from the institutions which are not in the list of N.C.T.E are not valid, in

that circumstances, this Court cannot substitute by its own view with the administrative view of the State Government and so much so that after the enforcement of N.C.T.E. Act institutions whose names are in the list of N.C.T.E. would be recognized institutions and other institutions will be outside the zone, but this aspect is not required to be decided in the present case as in the present case only limited relief has been sought for the payment of arrears of salary.

9. In such view of the matter, the petitioner is given liberty to file a detailed representation before the District Programme Officer (Establishment), Rohta, Sasaram, who will be obliged to pass a reasoned order in accordance with law within a period of three months from the date of filing of such representation. Consideration will be confined to the period, the petitioner has claimed to have discharged the duty.

10. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.06.2016
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