

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19343 of 2013

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1. Baby Kumari Wife Of Bipin Kumar Resident Of Village - Bajaul, P.S.
Wazirganj, Distt. - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar, Through Its Principal Secretary Education, Bihar, Patna
2. The District Magistrate, Gaya
3. The Director, Mid - Day - Meal, Bihar, Patna
4. The Incharge Officer, Mid - Day - Meal, Distt. - Gaya
5. The Block Resources Person, Wazirganj
6. The District Resources Person, Gaya
7. The Block Education Officer, Wazirganj, Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent/s : Mr. Amar Nath Deo, S.C.-26

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 21-06-2016

Heard the Counsel for the petitioner and A.C. to S.C.-26
for the State. Counter affidavit is filed on behalf of respondent nos. 2
and 4 to 7.

Petitioner is Headmistress of Primary School, Kusumhar
Mahua Panchayat, Gaya and is aggrieved by the order dated
25.07.2013 passed by the respondent District Magistrate on the basis
of inspection report (Annexure-A to the counter affidavit). On
23.07.2013, the school of the petitioner was inspected by the Incharge
Officer, Mid Day Meal, Gaya along with other officers and it was
found that only 137 students were on the rolls of the school. The
petitioner was claiming articles under the Mid Day Meal for 184



students. On the basis of report submitted by the Inspection Team, the District Magistrate passed the order directing the petitioner to deposit a sum of Rs. 60,000/- in the relevant account and also directing administrative action against her. The Court is not aware as to whether any departmental proceeding or judicial proceeding was initiated pursuant to the aforesaid order.

Counsel for the petitioner has submitted that 170 students had attended the classes in the morning and thereafter some of them left the school dropping leave application. Various circumstances have been cited by her to indicate that the shortage in the number of students can adequately be explained by her if an opportunity was given to do so. The legality of the impugned order is questioned on that basis.

In the counter affidavit, it is categorically stated that a team of the officers inspected the school on the relevant date and found only 137 students on the rolls of the school who were present whereas the petitioner had clandestinely shown 184 students in the school and was obtaining articles under the Mid Day Meal for distribution amongst the students. It is stated that an opportunity of making a representation against the impugned order be granted to the petitioner which will provide an opportunity to her to explain the circumstances under which the short fall in the number of students

was found by the Inspecting Team.

Let the petitioner first deposit at least 50 % of the amount as directed under the impugned order (Annexure-4) whereafter she will be at liberty to make a representation against the order directing deposit of a sum of Rs. 60,000/- by the respondent District Magistrate. If deposit of 50 % of the amount as directed under Annexure-4 is made and a representation is filed, I am sure, the respondent District Magistrate will consider the same and take appropriate decision and/or pass appropriate order in accordance with law.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

Pankaj/-

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