

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.5279 of 2013

In

Civil Writ Jurisdiction Case No. 8611 of 2013

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District Madarsa Teachers' Association, Banka, through its General Secretary, Md. Ibnul Hassan, son of late Abdul Qadir, resident of village-Simaria, P.S. Nathnagar, District-Bhagalpur.

.... Petitioner/s

Versus

1.The State of Bihar

2.Dr.Amarjit Sinha, Principal Secretary, Education Department, Government of Bihar, Vikas Bhawan, Patna.

3.Sri Rameshwar Prasad Singh, Principal Secretary, Finance Department, Government of Bihar.

4.Sri Dasrath Paswan, Special Director, Secondary Education Department, Vikas Bhawan, Patna.

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Opposite parties.

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Appearance :

For the Petitioner/s : Mr. Alim Jang Khan

For the Respondent/s : Mr. K.P.Gupta, S.C.16.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA

PRATAP SINGH

ORAL ORDER

5 25-10-2016

Heard the counsel for the petitioner as well as the State.

The petitioner is an association of the District Madarsa Teacher's Association, Banka, which has filed this writ application for grant of pay scales and other monetary benefits in terms of 5th, 6th and 7th Pay Revision Committee report to the teachers and non-teaching staff of Non-Government Madarsa and Sanskrit Schools as admissible to the teachers and other staff of Government schools as well as to teachers and non-teaching staff of the Education Department, Government of Bihar.

After hearing the parties the writ application was disposed of in the following term:-

“Having regard to the facts and circumstances of the case, I direct the Principal Secretary, Education as well as Finance Secretary, Government of Bihar to consider the case of the petitioner for grant of similar monetary benefit as provided to the Government Madarsa and Sanskrit Schools within three month from the date of receipt of a copy of this order in accordance with law also taking into consideration the decision in case of Bihar Minorities/Aided Primary Teachers Association, Patna and others Vs. State of Bihar and others), reported in 2011(4)PLJR 931 and other cases indicated above.

The petitioner is at liberty to place its case by filing representation before the concerned respondents as well.”

Counsel for the petitioner has raised grievance that the Government in the Department of Education has not considered their case and has even reduced the pay scale of Hafiz Teachers.



Counsel for the State submits that in terms of order dated 14.05.2013, the State Government vide resolution dated 31.08.2013 had taken a decision to sanction the grant for depending on pay scale sanctioned to teachers of Government Schools w.e.f. 01.01.2006, but no other benefits would be given save pay and dearness. Further more, the representation of petitioners have been disposed of on 21.09.2016. The resolutions dated 31.08.2013 and order dated 21.09.2006 have been annexed as Annexures-A and D to the show cause filed on behalf of the counsel for the respondents. Counsel for the State submits that the Government has granted monetary benefits to the said teachers which depends upon the policy decision. He has referred to paragraph 7 of the order, dated 31.07.2015 passed in C.W.J.C. No.10490 of 2015 which is quoted hereinbelow:-

“ 7. This Court has also examined the Circular dated 20.02.1990 from which it becomes very clear that whatever decision was taken cannot be read to also mean that if and when the pay scale of the Government employees or teaching and non-teaching employees of the Government Schools would be enhanced, as per the recommendation of the Pay Revision

Committee, the same will also become automatically available to the teachers and non-teaching employees of the Sanskrit School and Madarsa. The Circular dated 20.02.1990, in any event, as noted above, is merely an executive instruction, which cannot be enforced in any way by this Court.”

Having regard to the facts and circumstances of the writ application, the contempt application is disposed of with liberty to the petitioner to challenge the circular dated 08.02.2013 as well as the order dated 21.09.2016. Further more, the petitioners will be at liberty to draw the grievance that the pay of Hafiz teachers have been reduced.

Contempt application is disposed of with the aforesaid observation.

(Samarendra Pratap Singh, J)

AnilKrSinha/-

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