

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14217 of 2015

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1. Sanjay Kumar S/o Lakhandeo Rai R/o Vill. - Simri, P.O. Keshopur, P.S. Sarara, Distt. - Muzaffarpur
 2. Akhilesh Prasad Sinha S/o Birendra Narayan Sinha R/o vill. - Belsand, P.O. Belsari, P.S. Chakmehsi, Distt. - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through its Secretary Govt. of Bihar, New Secretariat, Patna
2. The Director (Primary Education) Education Department Govt. of Bihar, New Secretariat Patna
3. The Regional Deputy Director of Education Tirhute Division, Muzaffarpur
4. The District Education officer, Muzaffarpur
5. The District Programme officer (Establishment), Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Respondent/s : Mr. AAG-8- Gautam Bose

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 11-02-2016

Heard learned counsel for the parties.

Annexure-1 is the order issued by the Regional Deputy Director, Tirhut Division, Muzaffarpur, by virtue of which a direction has been issued across the board to one and all that the benefit, which has been given to two teachers, namely, Sanjay Kumar and Akhilesh Prasad Sinha, who are working as Assistant Teacher in basic schools, located at Dubha in the district of Muzaffarpur would not be entitled to the benefit of matric-trained-scale, which was granted to them vide Office Order No. 302, dated 10.03.2015. Annexure-1, dated 25.06.2015, therefore, is being challenged in the present writ application, not only for quashing the said order but also

allowing the petitioners to continue to derive the benefit of matric-trained-scale.

Learned counsel for the petitioners submits that there is nothing wrong with the benefit which was given to the petitioners by virtue of notification, dated 10.03.2015. The benefit was extended in terms of the circular, contained in Annexure-4 and there is no distinction between a regularly appointed teacher and a teacher appointed on compassionate ground. The scheme dated 05.01.2015, copy of which is Annexure-4, does envisage grant of the benefit for people with higher qualification and education. Keeping the said circular in mind, the benefit was notified on 10.03.2015 and the petitioners started deriving benefit there from.

Notification is Annexure-5, but without application of mind the same is sought to be undone and even recovery is contemplated by virtue of the said order.

Department of Education and officials of the Education Department, especially posted in the field, are notorious for misinterpreting circulars, rules and guidelines, issued at the headquarters to extend all kind of benefit to people, who are not even eligible or entitled to the benefit. Present case seems to be yet another of those instances where out of context circular has been quoted and extended to a set of teachers, who are not even governed by the said circular in any manner.

A look at Annexure-4 would clearly indicate that the

notification was issued for the benefit of teachers working in primary schools of the State of Bihar. So far as basic schools are concerned they are a class apart. They have a separate set of rules. Their appointment is also governed separately and primary school and basic schools are not one and the same thing.

Learned counsel for the petitioners tried to put up a valiant fight by trying to quote an out of context definition to show that it is a teaching from standard 1 till 8, is what constitutes a basic school or a primary school.

The fallacy in the argument is that there is a separate set of rules for basic schools and a primary school and a basic school are two different entities altogether, having separate service conditions including recruitment. Obviously, when Annexure-5 was issued, this aspect of the matter was either overlooked or was deliberately ignored by the concerned authorities. When the reality dawned upon them, Annexure – 1 came to be issued.

Law is quite well settled that a government servant can only derive benefit in accordance with rules, circulars and guidelines issued and which relate to them. They cannot draw advantage, more so of monetary kinds, which are not meant for them by misinterpreting or wrongly interpreting the circulars.

The Court certifies that Annexure – 4 does not relate to the category of persons, to which the petitioners belong and if people from other districts have also been granted this benefit by

misinterpreting Annexure – 4 and who are working in the basic schools, then the Director, Primary Education, Government of Bihar, Patna is directed to look into such matter and stop the loot of public money by persons not entitled to such benefits.

Things being what they are, since the petitioners were extended the benefit illegally and wrongly and since the steps have been retraced within a couple of months, the Court is not even inclined to interfere with the decision for recovery of the amount.

Writ application is dismissed, as Annexure – 1 does not suffer from any vice.

(Ajay Kumar Tripathi, J)

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