

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.15570 of 2016**

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1. Shyam Rajak S/o Late Kishun Rajak, resident of Village Mandroja, P.S. Tatarpur,  
District- Bhagalpur

... .... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Patna, Bihar.
2. The Principal Secretary, Human Resources Development Department, Bihar, Patna.
3. The Director, Secondary Education, Bihar, Patna.
4. The District Education Officer, Banka.
5. The District Programme Officer (Establishment), Banka.
6. The Treasury Officer, Banka.
7. Sri Navin Chandra Mishra, Incharge Head Master, Adarsh Balika High School, Amarpur

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Swapnil Kumar Singh

For the Respondent/s : Mr. Jitendra kumar Roy-1, SC 13

Mr Virendra Kuar, AC to SC 13

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 22-12-2016**

Heard counsel for the petitioner and counsel for the  
State.

An absurd kind of stand has been taken on behalf of the  
State giving justification as to why salary of the petitioner has been  
stopped by invoking powers under Rule 4 (iv) of Bihar Government  
Servant Conduct (Amended Rules), 2011.

With due respect to the respondents and the deponent,  
they do not seem to have even a modicum of understanding of law or  
the procedure. This rule can never form the basis for stopping of  
salary of a person for not providing inputs or information under Right  
to Information Act, which is a composite Act.



When the Court confronted the State counsel with regard to the applicability of this rule then he switched over to the provisions of the Right to Information Act 2005 referring to Rule 20.

The said rule was also placed in detail in Court. The Court fails to understand as to how this power can be exercised by the District Education Officer or the District Programme Officer. In other words, their decision to stop salary of the petitioner is not supported by any law. The decision, therefore, is per se irrational, arbitrary and is required to be quashed. The necessary order contained in Annexure- 7 is hereby set aside.

Both the respondents are directed to ensure that salary of the petitioner is released even for the period it was withheld or not drawn by the petitioner within a period of four weeks. If such a payment is not made within a period of four weeks, both the District Programme Officer and the District Education Officer will pay cost to the petitioner to the tune of Rs.10000/- each. Both the officers are further cautioned not to abuse their power and authority or exercise such power which is not vested in them.

Writ is allowed.

**(Ajay Kumar Tripathi, J)**

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