

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11769 of 2015

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1. Ashok Kumar Singh aged about 56 years S/o Late Nawal Kishore Prasad Singh
R/o Vill+P.s Jandaha, Dist- Vishali, at present working as Asstt Engineer office,
Zila Parishad Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Gram Panchayat Raj, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Gram Panchayat Raj, Govt. of Bihar, Patna.
3. Zila Parishad Vaishali, through its Chairman.
4. The chairman Zila Parishad, Vaishali, Bihar.
5. The DDC cum Chief Executive Officer Zila Parishad, Vaishali Bihar.
6. The Additional Chief Executive Officer, Zila Parishad, Vaishali Bihar.
7. The District Engineer, Zila Parishad, Vaishali Bihar.
8. The Assistant Engineer, Zila Parishad, Vaishali Bihar.
9. The Head Clerk, Zila Parishad, Vaishali Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Prakritita Sharma
For the Respondent State: Mr. Lalit Kishore, PAAG-1
Mr. Prashant Pratap, GP 2
Mr. Gyan Shankar, AC to GP 2
For the Zila Parishad : Mr. Srinandan Singh
Mr. Ashok Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-08-2016

Writ application filed by the petitioner was taken up as a modal case for the reason that non-payment of salary to the employees of Zila Parishad for years together is a regular feature in the State of Bihar. Series of writ applications are filed seeking a direction upon the Zila Parishads to pay them their regular salary, make deposit of their provident fund and, at times, even suitable revision in the pay and pension, if at all there is a provision for it in certain Zila Parishad, which this Court has been very patiently dealing on one-to-one basis. But since such problems persist and

have taken a chronic shape, the Court directed the Principal AAG-1 to take up the issue with Government and revert to the Court with regard to their stand on such problems.

2. The Court cannot be unmindful of the fact that most of these issues relate to Class III and IV employees and they cannot sustain themselves and their family without payment of regular salary for years together.

3. Zila Parishads have a common kind of stand to take that they have very limited source of revenue generation. Even though by a constitutional amendment and legislative action a three tier level of governance was created but there was no tangible transfer of power or its devolution, most of these organizations viz. Panchayat or the Zila Parishads and Municipalities are left with problems of limited or no resource and many obligations created upon them.

4. The resources are meagre. Therefore, the stand for non-payment is basically because of the said reason. The Court, therefore, did feel that either the Government takes steps for issuing proper notification or further legislation where power of revenue generation by imposing of taxes etc. would be permissible and vested in such bodies so that they can meet their obligation and establishment cost.

5. The State in its affidavit has tried to explain that in terms of the recommendation of various State Finance Commissions, grants are being released in favour of such organizations and now it is also clear that such grants include expenses to be met for payment of salary as well, which

was earlier denied by the learned counsel representing the Zila Parishad in the present case.

6. So far as Vaishali is concerned, payment to the petitioner or such employees has already been made till May, 2015 but, again, since the recommendation of the Fifth State Finance Commission has not converted itself into release for one reason or the other, petitioner is without salary again for more than a year.

7. However, on instruction, PAAG-1 informs the Court that the grants- in-aid is likely to be released soon. That will take care of payment of salary. In addition to that, as a long term measure the State Government is on the job and modality is being worked out as a long term measure by devolution of power by permitting imposition of various kinds of taxes etc. at the local level.

8. Both the issues i.e. release of grant as well as changes in the law vesting power upon the three tier level democratic institution must be expedited and Court only hopes that the stand taken by the State on the above two issues does not remain only for consumption of the Court.

9. The proof of the pudding is in the eating goes the expression. Only time will tell whether such steps have been taken. If they are in the rightful spirit then such litigations of routine kind for a mandamus of payment of salary would substantially dwindle.

10. Writ application stands disposed of with the above observation and direction.

11. Before parting, learned counsel for the petitioner points out

instances where payment of salary has not been made for past years, to some of the employees.

12. This issue will be looked into by the Chief Executive Officer of the Zila Parishad, Vaishali and if there are no justifiable legal reasons for not making payment, such payment should also accrue to them in uniform manner at least till May 2015 within a period of ten weeks from today.

13. The cash-books produced before this Court have already been returned back to the counsel representing the Zila Parishad, Vaishali.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	02/08/2016
Transmission Date	