

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4041 of 2017

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Md. Mohsin Karim S/o Late Md. Imam Bakhsh, Resident of
Mohalla/Village- Karim Nagar (Bhattha Tola), P.O. + P.S.- Simri
Bakhtiyarpur, District- Saharsa.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary cum
Commissioner, Secondary and Primary Education, Government
of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Patna.
3. The Secretary, Finance Department, Government of Bihar,
Patna.
4. The District Education Officer, Saharsa.

.... Respondents

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Appearance :

For the Petitioner : Mr. Naseem Mukhtar, Advocate
Mr. Majid Mahboob Khan, Advocate
For the State : Smt. Binita singh- SC28
Mr. Vivek Anand Amitesh, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 20-07-2017

Heard learned counsel for the petitioner
and learned counsel for the State.

Petitioner in the present case is seeking
issuance of writ in the nature of mandamus
commanding the respondents to pay leave
encashment amount to the petitioner. The petitioner
is said to have retired from Government Aided
Minority School and claims that according to the
policy decision as also various circulars issued from
time to time by the State Government with regard to
equal treatment to the Aided Minority School



Teachers, the petitioner is entitled to get the leave encashment amount.

Learned counsel for the petitioner has placed before this court a copy of the order dated 03.08.2015, passed in C.W.J.C. No. 23/2015 by a coordinate Bench of this court. It appears from perusal of the said order that in the said case also the issue with regard to payment of leave encashment/earned leave to a retired teacher from an aided minority school came up for consideration. The writ application was allowed by a coordinate Bench of this Court with a direction to the respondents to pay leave encashment amount as per the entitlement to the petitioner. Further, learned counsel has placed before this court a copy of order dated 16.03.2017, passed in Letters Patent Appeal No. 1856/2016, which arose out of aforesaid C.W.J.C. No. 23/2015. In the said LPA preferred by the State of Bihar, the Hon'ble Division Bench of this court did not interfere with the order passed by learned writ court.

Learned counsel for the petitioner submits that the petitioner is identically situated and in terms of the Bihar Litigation Policy Clause 4(1)(c)



framed by the Government of Bihar, it is incumbent upon the concerned department to look into the grievance of the petitioner in the light of the orders passed by this court in similarly/identically situated cases, still the respondents are not acting as per the their own policy decision.

Learned counsel for the State submits that the respondents shall examine the case of the petitioner in terms of its own policy, as pointed out hereinabove, and if the case of the petitioner is found covered under the orders of this Court, the petitioner shall also be given the same benefit.

In the aforesaid view of the matter, no useful purpose will be served by keeping the present writ application pending. Let the case of the petitioner be examined by the concerned committee of the department which is looking into the matters covered by the orders of the court as per the policy decision. The said committee shall take a decision in this regard within a period of two months from the date of receipt of the copy of this order. It is made clear that if such a committee is not constituted in the department, the Principal Secretary of the



Department shall take decision within the aforesaid period and whatever admissible dues are found, the same must be paid to the petitioner within one month thereafter. In case of denial of the claim of the petitioner either in part or full, a reasoned order shall be communicated to the petitioner within the aforesaid period of two months.

With the aforesaid observation and direction, this writ application stands disposed of.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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