

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 1545 of 2017

Along with

Interlocutory Application No. 1885 of 2017

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Ramakant Jha, Son of Late Yamuna Jha, Resident of Village- Ramchandrapur,
P.S.- Pipariya, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education Directorate, Education Department,
Government of Bihar, Patna.
4. The District Magistrate, Lakhisarai.
5. The District Education Officer, Lakhisarai.
6. The District Programme Officer, establishment, Lakhisarai.
7. The Block Education Officer, Pipariya, Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Gajendra Kumar Singh, Advocate
For the State : Mr. Madanjeet Kumar, G.P. 20

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-08-2017

Heard Mr. Rama Kant Sharma, learned senior counsel
assisted by Mr. Gajendra Kumar Singh, learned counsel for the
petitioner and Mr. Madanjeet Kumar, learned G.P.-20 for the State.

2, The petitioner has moved the Court for the
following reliefs in the main writ application.

“(I). For issuance of appropriate writ/writs, order/orders, direction/directions commanding the respondent authority for making payment of his salary for the with which has been with held W.e.f. June 2015.

(II). For issuance of appropriate writ/writs, order/orders, direction/directions for quashing the order contained in memo no. 742 dated 01.07.2015 issued under the signature of



respondent no. 3, the Director Primary Education, whereby and where under a random observation has been given that status of physical trained teachers is equivalent to untrained teachers and by giving such information it has been mentioned that untrained teachers are not entitled for time bound promotion and by citing those decision all district Education officers were directed to verify whether time bound promotion was granted to physical trained teachers then such promotion shall be treated as irregular and withdraw such promotional/time bound promotion and consequential letter issued by the respondent no. 5 contained in letter no. 918 dated 03.07.2015 and respondent no. 7 Block Education officer, Pipariya Contained in letter no. 440 whereby petitioner has been directed to submit his service book within two days for revision of his salary.

(III). For issuance of appropriate writ/writs order/orders, direction/directions commanding the respondent authority to treat the petitioner equivalent to trained teacher as resolved pursuant to letter no. 7678 dated 17.03.1983. whereby it has been resolved that physical trained teachers as well as B.E.D. trained have equal status and all term and condition of services followed in their case are same and similar and in that view of the matter impugned order and consequential order and consequential action are fit to be set aside.

(IV). For any order relief/reliefs for which he is found entitled in the eye of law and in the facts and circumstances of the present case.”

3. However, after filing of the writ petition, under Memo No. 180 dated 06.02.2017 issued by the respondent no. 6, it was communicated to the petitioner that matric trained scale, as given to him is inapplicable/inadmissible and his scale be fixed on the scale of matric untrained and further that excess payment made



be recovered for which direction was given to the respondent no. 7 and the concerned Drawing and Disbursing Officer. Such order was also sought to be impugned in Interlocutory Application No. 1885 of 2017 filed by the petitioner. In view of the same being in continuation of the initial relief prayed in the writ petition, the prayer is allowed and such relief shall form part of the main writ application. Interlocutory Application No. 1885 of 2017 stands disposed off.

4. The petitioner was getting the scale of physical trained teacher since his appointment but by the impugned order, the same has been withdrawn and recovery directed.

5. Learned counsel for the petitioner submitted that he is a trained physical teacher and was getting trained scale and thus, there was no illegality in the same. Further, it was submitted that in any view of the matter, when an order is passed for cancellation of a particular pay scale being given to the petitioner, followed by recovery, it cannot be done without there being a show cause/notice given to the petitioner.

6. Learned counsel for the State submitted that he may require time for seeking instructions on merits. However, with regard to the fact that no notice was given to the petitioner before passing of the order impugned, he was not in a position to controvert



or defend the same.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the order impugned dated 06.02.2017 stands set aside on the short point of there being violation of principles of natural justice. However, it shall be open to the authorities to notice the petitioner with regard to any alleged irregularities and upon such reply filed by the petitioner, a decision shall be taken, in accordance with law.

8. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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