

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6124 of 2017

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Geeta Kumari, W/o Shri Joginder Prasad Yadav, R/o Village- Madhubani, P.O.- Madhubani, District- East Champaran, Motihari, presently posted as Block Teacher, Utkramit Middle School, Pratap Mathia, Block- Sangrampur, East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Education Department, Govt. of Bihar, Patna.
3. The Regional Deputy Director of Education, Education Department, Govt. of Bihar, Patna.
4. The District Magistrate, East Champaran, Motihari.
5. The Deputy Development Commissioner, East Champaran, Motihari.
6. The District Programme Officer (Establishment), MDM, East Champaran, Motihari.
7. The District Education Officer, East Champaran, Motihari.
8. The Block Development Officer, Sangrampur, East Champaran, Motihari.
9. The Block Education Officer, Sangrampur, East Champaran, Motihari.
10. Pramod Kumar Giri, S/o Shri Rajvanshi Giri, presently posted as Block Teacher in Utkramit Middle School, Pratap Mathia, Block- Sangrampur, District- East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nikhil Kumar Agrawal and Ms. Aditi Hansaria, Advocates
For the State	:	Ms. Binita Singh, S.C. 28 Mr. Nishant Kumar Jha, A.C. to S.C. 28
For the Respondent No. 9	:	Mr. Bindhyachal Singh and Mr. Ramakant Singh, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-08-2017

Heard learned counsel for the petitioner; State;
respondent no. 8 and respondent no. 9 in his personal capacity.

2. The petitioner has moved the Court for the
following reliefs:

*“i) To issue an appropriate
writ/order/direction in the nature of Mandamus*



commanding the Respondent authorities to pay up-to-date salary of the Petitioner which has been illegally stopped since February 2017 along with penal interest;

ii) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the Respondent authorities to implement their orders dated 08.11.2016 and 04.02.2017 and insure that complete handover of the charge of the school is given to the Petitioner by the Respondent No. 10;

iii) To issue an appropriate writ/order/direction in the nature of Mandamus declaring that the action of the Respondent authorities is contrary to the letter no. 3241 dated 30.12.2015 whereby directions/guideline has been issued which deals with the manner in which an In-charge Headmaster is to be appointed in the middle schools;

iv) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the Respondent authorities to enquire into the defalcation of money that is being done by the Respondent No. 10 by withdrawing huge sums of money without proper authorization and purpose;

v) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the Respondent authorities to initiate departmental proceedings against Respondent no. 10 who has repeatedly defied and disobeyed the orders of his superior officers which is nothing short of insubordination and dereliction of duty.

vi) To any other relief or reliefs for which the Petitioner is found entitled to in the facts and circumstances of the case.”

3. Basically the issue involved was that though the petitioner was made the Incharge Headmaster of Utkramit Middle School, Pratap Mathia, Block-Sangrampur in the district of East



Champaran, but respondent no. 10, who was earlier designated as Incharge was still continuing with the charge of Incharge Headmaster. It appears that initially the respondent no. 10 was made Incharge Headmaster by the respondent no. 9, by order dated 19.10.2016, upon superannuation of the erstwhile incumbent, but subsequently, on a representation filed by the petitioner, the respondent no. 9, by order dated 08.11.2016 made her Incharge Headmaster in view of she being declared senior to the respondent no. 10. However, despite such order being issued, the actual transition on the ground, of the petitioner being given the powers, including that of maintaining registers, was never passed over to her and respondent no. 10 continued to discharge such functions, both on the administrative as well as financial side. The respondent no. 3 intervened in the matter on the basis of representation filed by the respondent no. 10 and by order dated 08.03.2017 directed the respondent no. 9 to make fresh arrangement of Incharge Headmaster in terms of the departmental circular and the order dated 08.11.2016 in favour of the petitioner was stayed. Thereafter, the respondent no. 9 again made the respondent no. 10 as Incharge Headmaster. In the meantime, the petitioner being aggrieved, moved before the respondent no. 7 and order dated 15.04.2017 was issued in favour of the petitioner making her Incharge Headmaster on the administrative



side. The respondent no. 9, thereafter issued a letter making the petitioner Incharge Headmaster by order dated 20.06.2017, but with a rider that only administrative matters be dealt with by her and with regard to financial powers, the same be exercised by the Headmaster of another school. On 22.06.2017, after hearing the parties, the Court had observed that the authorities shall file counter affidavit and the State authorities shall ensure that the petitioner is allowed to function as Incharge Headmaster without any let or hindrance from any quarter to the extent that she is entitled to under any existing policy/notification/circular of the State Government. The order was never actually complied by the authorities and thus on 17.07.2017, the Court had directed the District Magistrate, East Champaran to himself report as to whether the allegation by the petitioner that despite there being an order in her favour to act as Incharge Headmaster of the school in question with regard to administrative functions and another regular Headmaster of the neighboring school being vested with financial power, it was the respondent no. 10, who was still exercising both administrative and financial powers. In terms of the said exercise, an exhaustive report has been brought on record by way of affidavit filed by the District Magistrate, East Champaran today. The same discloses grave irregularities and lapses on the part of the respondent no. 9, which is well documented from



the papers and which clearly indicate that besides there being violation of various circulars of the Government, even the order of the High Court was not acted upon/complied with. In this connection, learned counsel for the State has submitted that appropriate action shall be taken against the then respondent no. 9 and as an interim measure, he has already been shifted back to the teaching side and is no more the Block Education Officer. It was submitted that such action shall be taken expeditiously to its logical conclusion in right earnest. As far as the petitioner is concerned, it has been stated that now she is exercising all administrative powers as per the notification of the State Government. However, it has been stated that the regular Headmaster of an adjoining school is the person responsible for all financial transactions. The respondent no. 7, who is present in Court stated that the petitioner and other similarly situated persons have also been paid their salary on the basis of attendance marked in the separate register maintained by the petitioner and that the same shall be regularized and shall not be held against her in future. He has also clarified that as and when grants come, payments are made and salary for the month of April has already been paid. He has assured the Court that as and when and to the extent other teachers are paid, the petitioner shall also be paid, without any discrimination.



5. The petitioner, who was also incidentally present, has countered the charge against her by the State authorities that she comes from a long distance and often she is absent and invariably late. She has submitted through her counsel that she lives less than a kilometer away in rented accommodation near the school though her permanent address is in the town of Motihari. She has assured the Court that there shall be no occasion in future for complaint with regard to her coming late and not living near the school and also not devoting the time required in the school.

6. The then respondent no. 9, who is present in Court has accepted that there have been mistakes and lapses on his part, and both him and his counsel have prayed to the Court to forgive him with the assurance that he shall not give any opportunity of any complain in future. In view of such assurance, despite the Court being of the opinion that strict orders be passed against him, refrains from doing so in the present case.

7. However, Mr. Arun Kumar, the then Block Education Officer, Turkolia, East Champaran is cautioned to be careful in future, both with regard to the discharge of his official duties and more particularly with regard to the orders passed by the Courts.

8. It goes without saying that any investigation and



action shall not be restricted only with regard to the then respondent no. 9, but shall also take into ambit the role of all concerned, including the respondent no. 10, who has blatantly and openly exercised both administrative and financial power, despite him not being entitled in law.

9. Learned counsel for the State has pointed out that action has already been initiated against the respondent no. 10, which would be clear from the direction given by the respondent no. 7 to the respondent no. 9 to initiate action by the District Employment Unit against the respondent no. 10. It is expected that both the respondent no. 7 and the present respondent no. 8 shall ensure that the matter is taken to its logical conclusion against the respondent no. 10 as well.

10. The writ petition stands disposed off in the aforementioned terms.

11. The appearance of the officers stand dispensed with.

(Ahsanuddin Amanullah, J.)

P. Kumar

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