

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.673 of 2017

Meena Gupta, Wife of Dr. Madan Prasad, Resident of Mohalla- Ram Krishna Nagar, Post- Ram Krishna Nagar, P.S. Ram Krishna Nagar, District- Patna, Presently posted as Head Mistress, Bapu +2 High School, Chandi, Distirct- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Secondary Education, Education Department, Bihar, Patna.
4. The Internal Financial Advisor-cum-Director, Primary Education, Education, Department, Bihar, Patna.
5. The Regional Deputy Director of Education, Patna Divison, Patna.
6. The District Education Officer, Patna.
7. The Finance Secretary, Finance Department, Bihar, Patna.
8. The Head Mistress, Narayani Girl's High School, Patna City, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nandlal Kumar Singh, Advocate Mr. Manish Kumar, Advocate Mr. Rajeev Nayan, Advocate Mr. R. Pritam, Advocate
For the State	:	Mr. Sunil Kumar, AC to GA12

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 20-12-2017 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The petitioner has earlier approached this Court in CWJC No. 17785 of 2011 which was disposed of by order dated 4.4.2013 in the following terms:

“In this view of the matter, so far as non-payment of salary for the period September, 2004 to 04.05.2006 is concerned, the petitioner may approach the Director, Secondary Education, Bihar, Patna as she



could not be blamed for not performing the work at the transferred place, if the joining itself is not accepted by the Headmistress. In case a representation to the aforesaid effect is filed before the Director, Secondary Education, Bihar, Patna, he would dispose of the same within a period of three months from the date of receipt of a copy of this order without being influenced by the impugned order dated 22.07.2010 (Annexure-1/A) passed by the Principal Secretary, Human Resources Department. The authority would make payment for the period 05.05.2006 to 01.11.2006 and from 01.01.2011 to 14.01.2011 forthwith.

With the aforesaid direction, this application is disposed of.”

After the order dated 4.4.2013, the petitioner has approached the Director, Secondary Education. This Court has in most unambiguous terms indicated that the petitioner cannot be blamed for not performing the work on the transferred place if the joining itself is not accepted. This finding of the writ court has not been assailed by the respondents by preferring appeal or by way of review and as such the said finding has attained finality and is binding between the parties, yet the Director, Secondary Education vide order dated 6.1.2014 has held out that



the petitioner is responsible for not performing the work during the aforesaid period. Such finding of the Director runs contrary to the order passed by this Court and as such the finding cannot be sustained. The direction of the Writ Court inter party is binding and the respondents cannot resile from the direction issued by the Writ Court.

Accordingly, the order dated 6.1.2014, so far as the finding recorded by the respondent-Director that the petitioner voluntarily did not perform duty and as such, not entitled to payment, is unsustainable and is quashed. The respondents are directed to act in accordance with the order passed by the writ Court in CWJC No. 17785 of 2011 vide order dated 4.4.2013 and make payment of salary for the aforesaid period in the light of the order of the writ court as indicated hereinabove within 60 days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

U			
---	--	--	--

