

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.827 of 2014
IN
Civil Writ Jurisdiction Case No. 18849 of 2012**

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Bijay Shankar Pandey Son of Shri Rabindra Nath Pandey Resident of village Bedouli , P.O. Arak, P.S. Krishna Brahu, District - Buxar.

.... Appellant/s

Versus

1. The State of Bihar.
2. The District Education Officer, Buxar.
3. The District Programme Officer, Buxar.
4. The Block Development Officer, Chakki, P.O. Chakki, P.S. Chakki, District - Buxar.
5. The Headmaster, Upgraded Middle School Bedauli, P.O. Arak, P.S. Krishna Brahu, District - Buxar.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Krishna Ranjan, Advocate Mr. Shyama Kant Singh
For the Respondent/s	:	Mr. Anant Prasad Singh, SC-15 Mr. Sanjay Kumar, AC to SC-15

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 23-03-2017

On 30th of January, 2014, the Learned Single Judge dismissed the writ application of the present appellant, refusing to grant any relief, much less a direction for payment of so called salary from 13th of May, 2005 up till date.

The assertion of the appellant was that he was appointed as Panchayat Shiksha Mitra in the year 2004. He became a Panchayat Teacher and continued in that capacity till date. Non-



payment of salary to him is violation of his right and, therefore, he moved the District Teachers Employment Appellate Tribunal for a direction. The Learned Single Judge in his order has not only commented but also deprecated the manner in which the Tribunal dealt with the issue. The Tribunal simply forwarded the application of the appellant to the concerned authorities to verify and, if necessary, make payment.

When nothing came to be done, the writ application was filed. In the writ application also, the Learned Single Judge observed that there was hardly any pleading or evidence, on which it could be safely deduced that the appellant was validly appointed and had continued in the capacity of a Panchayat Teacher so had a right for payment for the period of work. In fact, the Learned Single Judge has expressed surprise that the appellant, who was not an Intermediate, was appointed as a Panchayat Shiksha Mitra, did not complete his Intermediate till the year 2012 and, therefore, was ineligible in the very first place to be appointed or if appointed he should have cleared the Intermediate qualification well within 33 months of such appointment. With such evidences and the pleadings missing, the Learned Single Judge refused to pass any order in favour of the appellant.

He has also further by taking into consideration a Full Bench decision of Patna High Court, which was the case of ***Rita Mishra & ors. Vs. the Director, Primary Education, Bihar & ors., reported in***



1987 PLJR 1090, as well as the case of *R. Vishwanatha Pillai vs. State of Kerala & ors., reported in 2004(2)SC105*, refused to be taken in by the argument that a person, who has worked, even if it is illegal, should be rewarded with payment. The two authorities are complete answer to such submission.

In view of the Supreme Court’s decision as well as the Full Bench’s decision, the reliance placed by the learned counsel for the appellant, on a decision, in the case of *Gautam Kumar Chaudhary vs. The State of Bihar & ors., reported in 2009 (1) PLJR 589*, is not good law.

The order of the Learned Single Judge, therefore, does not suffer from any illegality or infirmity, which is required to be rectified.

Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

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