

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12350 of 2016

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1. Suman Swaraj son of Sri Mahasay Ram, resident of Village- Sarsar, P.S.- Siwan, District- Siwan.
 2. Srikant Singh son of Kameshwar Singh resident of Village- Devkuli, P.S.- Mahammadpur, District- Gopalganj, Bihar.
 3. Anita Goshwami wife of Rajesh Parwat, resident of Village- Parwa ke Mathiya, P.S.- Barhariya, District- Siwan.
 4. Bushra Khatoon wife of Imtiyaz Alam, resident of Village- Gopal Math, P.S.- Thawe, District- Gopalganj.
 5. Bimla Prasad wife of Sri Anil Kumar Manjhi resident of Village- Jagatpura, P.S.- Barhariya, District- Siwan.
 6. Sandeep Kumar Singh son of Shriniwas Singh resident of Village- Parwaliya, P.S.- Uchkagaun, District- Gopalganj.
 7. Kripashankar Prasad, son of Gautam Prasad, resident of Village- Madhopur, P.S.- Barauli, District- Gopalganj.
 8. Batika Kumari Daughter of Rajeshwar Singh resident of Village- Risaura, P.S.- Maharajganj, District- Siwan.
 9. Santosh Kumar, son of Late Sahdeo Paswan, resident of Bazar Khajuriya, P.S.- Sidhbaliya, District- Gopalganj.
 10. Byas Kumar Singh son of Jaleshwar Singh resident of Village- Khajuriya, P.S.- Sidhbaliya, District- Gopalganj.
 11. Nurain son of Late Md. Ekbal, resident of Village- Vishunpura, P.S.- Sidhbaliya, District- Gopalganj.
 12. Bebi Kumari wife of Jitendra Kumar Sah resident of Village- Kashi Tengrahi, P.S.- Mahammadpur, District- Gopalganj.
 13. Puja Kumari wife of Sri Rupesh Kumar Singh resident of Village- Gangawa, P.S.- Sidhbaliya, District- Gopalganj.
 14. Rajnish Kumar son of Dayashankar Singh resident of Village- Madhuwani Ghat, P.S.- Muffasil Motihari, District- East Champaran.
 15. Amire Azam, son of Master Aainuddin resident of Village- Aalampur, P.S.- Jamo Bazar, District- Siwan.
 16. Baidnath Baitha son of Late Bindeshwari Baitha resident of Village- Haluar, P.S.- Sidhbaliya, District- Gopalganj.
 17. Binay Kumar Prasad, Son of Om Prakash Prasad, resident of Village- Belsand, P.S.- Belsand, District- Gopalganj.
 18. Kanhaiya Kumar Paswan, Son of Munshi Paswan, resident of Village- Dularpur, P.S.- Fulwariya, District- Gopalganj.
 19. Binod Kumar, son of Ram Narayan Yadav resident of Village- Risaura, P.S.- Maharajganj, District- Siwan.
 20. Rameshwar Ram, son of Sri Jagan Ram, resident of Village- Indrawan, P.S.- Thawe, District- Gopalganj.
 21. Tarkeshwar Sah, son of Ramjit Sah resident of Mallupur, P.S.- Pachrukhi, District- Siwan.



22. Mira Singh, son of Parmatama Singh resident of Village- Ekdanga Tola Nerue, P.S.- Mirganj, District- Gopalganj.

23. Gyanti Kumari son of Tribhuwan Singh, resident of Village- Khoripakar, P.S.- Zamo Bazar, District- Siwan. Petitioners.

Versus

1. The State of Bihar through the Principal Secretary, Dept. of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Dept. of Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Gopalganj.
5. The District Programme Officer (Establishment), Gopalganj.
6. The Block Education Officer, Hathua, Gopalganj.
7. The Block Education Officer, Baikunthpur, Gopalganj.
8. The Block Education Officer, Manjha, Gopalganj.
9. The Block Education Officer, Thawe, Gopalganj.
10. The Block Education Officer, Uchkagaun, Gopalganj.
11. The Block Education Officer, Barauli, Gopalganj.
12. The Block Education Officer, Kuchaikot, Gopalganj.
13. The Block Education Officer, Sindhwalia, Gopalganj.
14. The Block Education Officer, Bhore, Gopalganj.
15. The Block Education Officer, Fulwaria, Gopalganj.

.... Respondents

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Appearance :

For the Petitioners : Mr. P.K. Shahi, Sr. Adv.

: Mr. Satyam Shivam Sundaram, Adv.

For the Respondents: Mr. SC- DR. Anil Kumar Upadhyay

: Mr. Naresh Prasad, AC to SC-2.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 03-03-2017

Heard learned counsel for the petitioners and the State.

Through this writ petition, the petitioners seek following

reliefs:-

(i). For quashing of letter no. 12551 dated 31.05.2016, issued under the signature of District Programme Officer, Establishment, Gopalganj whereby and whereunder all concerned B.D.Os, BEO and Panchayat Secretaries of the District were directed to not



allow those teachers, who were appointed after 24.01.2014 to mark their attendance and to discharge teaching works in their respective schools as no prior permission was obtained for their appointment from the Education Department.

(ii) For a direction upon the concerned authorities to allow the petitioners to discharge their duties and to mark their attendance in their respective schools.

(iii) For granting any other relief/reliefs to which the petitioners are found entitled too.

The admitted position is that the petitioners were appointed in view of the direction given by the District Teachers Employment Appellate Authority, Gopalganj. However, vide Annexure-7 dated 31.05.2016, the District Programme Officer (Establishment) Gopalganj had directed the Block Development Officers, Block Education Officers and the Panchayat Secretaries of Gopalganj District not to offer appointment in certain cases, in view of the direction of the State Government that any direction for appointment given by the District Teachers Employment Appellate Authority on such posts for which the selection process has already been concluded, should not be obeyed without taking permission of the State Government, otherwise, action would be taken against the erring officer. Further direction was given that no work should be taken from such persons.



Mr. P.K. Shahi, learned senior counsel appearing for the petitioners submits that once a decision is taken by the District Teachers' Appellate Authority it would bind all the parties unless the same is altered, modified or set aside by any competent forum.

It is contended that the authorities have not preferred any appeal or not moved before any authority for setting aside such order and, as such, it has to be complied. The petitioners were admittedly appointed, thus, without any rhyme or reason their salary cannot be stopped and they cannot be stopped from working at their respective places of posting.

In support of such submission, Mr. Shahi places reliance upon a decision dated 13.09.2010 passed by a Co-ordinate Bench of this Court, as contained in Annexure-14 appended to the rejoinder to the counter affidavit filed by the petitioner.

Learned counsel appearing for the State has submitted that the order of Authority is wrong as in view of the order of a Co-ordinate Bench of this Court rendered in some other case holding that the Appellate Authority cannot direct for appointment of a person.

Be that as it may, even if it is assumed that the Authority has passed right, wrong or indifferent order. But, in case the order has attained its finality since decision given by it has not been challenged before any competent forum, the settled legal



principle would be that it would bind the parties and, as such, until that order is in existence, it would have binding effect upon the State authority.

That apart, after petitioners were appointed in compliance of the order passed by the Appellate Authority, without taking any action for their removal or termination, an order of stopping them from working or not paying salary, cannot be passed by the State authority.

Thus, in my considered view, the impugned order, as contained in Annexure-7 is not at all sustainable in law and, as such, the same is quashed and set aside. The petitioners would continue to work and their salary should be paid.

However, so far merit of the order of the appellate authority is concerned, this Court has not expressed or formed any opinion.

As a result, this writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2017
Transmission Date	NA

