

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9182 of 2017

=====

Pravin Kumar, son of Late Mahendra Prasad Singh @ Mahendra Singh, R/o Village
– Chanrey, P.O. Awagil, P.S. Korma, Distt. Sheikhpura

.... Petitioner

Versus

1. The State of Bihar Principal Secretary, Department of Education, Government of Bihar, Patna,
2. The Director, Secondary Education, Bihar, Patna,
3. The Regional Deputy Director of Education, Munger,
4. The District Education Officer, Lakhisarai,
5. The Principal, Rajkiya High School, Hasanpur, District - Lakhisarai

.... Respondents

=====

Appearance:

For the Petitioner/s : None.

For the Respondent/s : Sri. Kameshwar Kumar, G.P. 17.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 05-07-2017

The present Writ Application has been filed for a direction to the respondents to pay salary of the father of the petitioner from December, 2002 till 14th September, 2007.

No one appeared on behalf of the petitioner.

Sri Kameshwar Kumar, learned counsel for the State has assisted the Court.

Attention of this Court has been drawn towards the order dated 23.02.2011 passed in CWJC No. 17828/2010 (Sunaina Devi v. The State of Bihar & Ors.) and MJC No. 3452/2011 (Sunaina Devi v. The State of Bihar & Anr.). Both the applications were filed by the mother of the present petitioner. A perusal of the orders aforesaid



would show that after the order was passed by this Court in CWJC No. 17828/2010, the respondents considered the case of the husband of the then petitioner and she was paid a sum of Rs. 11,36,026/- which was found due to her husband. It would further appear from the order that the husband of the petitioner was absent from 01.01.2003 till the date of his death, i.e., 14.09.2007 and, as such, payment of salary for that period was not paid to the petitioner. When a challenge was given to the observation that the husband of the petitioner was absent from the school for the aforesaid period, the Court at that point of time was not agreeable to consider the disputed fact. The petitioner in the said MJC was granted liberty to assail the order contained in Annexure D brought on record of MJC No. 3452/2011. After about five and half years from the date of disposal of MJC No. 3452/2011, the present petition has been filed for a Writ of Mandamus but without making any reference to Annexure 'D' which forms part of the record of MJC No. 3452/2011.

The case of the petitioner is that his father was stopped from making attendance because of the dispute as to the status of his father as a regular teacher. Such an order is said to have been passed by the Principal of Rajkiya High School, Hasanpur, Lakhisarai on the Attendance Register on 04.01.2003 (Annexure 8).

In its extraordinary writ jurisdiction under Article 226 of



the Constitution of India the Court is not supposed to make a fishing enquiry in the disputed question of facts. In MJC No. 3452/2011, a bench of this Court refused to consider the disputed facts; the same proposition would apply in an application under Article 226 of the Constitution as well. The order, as contained in Annexure-8, is said to have been passed on 04.01.2003, the same was never challenged by the father of the petitioner. This Court cannot examine the evidentiary value of the Attendance Register; photocopies of which are said to have been brought on record vide Annexure-7 to the Writ Application.

The writ application has thus no merit and the same is dismissed with liberty to the petitioner to avail any other remedy available to him before any other forum in accordance with law.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.07.2017
Transmission Date	N/A

