

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.915 of 2017

=====

Chaman Lal Das, son of Late Bhikhari Das, resident of village + P.O. - Nazari, Block - Laxmipur, District Jamui, presently posted as Panchayat Teacher, Elevated Middle School, Tetaria, Nawdiha, Block - Laxmipur, District - Jamui.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The District Education Officer, Jamui.
3. The District Programme Officer (Establishment), Jamui.
4. The Block Education Officer, Laxmipur, District - Jamui.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Arun Kumar, Advocate

For the State : Mr. Priyadarshi Matin Sharan, A.C. .to A.A.G. 15

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 14-02-2017

Heard parties.

Though a copy of the writ application was served on the State on 12.01.2016 itself, no counter affidavit has been filed till date.

Petitioner seeks quashing of Annexure 3 dated 25.04.2016 by which, on the basis of a direction of the District Education Officer, Jamui, his salary has been withheld for the reason that he could not clear his intermediate examination within 33 months from the date of his engagement as Shiksha Mitra. Petitioner was engaged first time as Shiksha Mitra on 25.02.2003



and time to time his engagement was extended and finally he was absorbed with effect from 01.07.2006 after coming of the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006. Much after that, in the year 2016, the aforesaid decision has been taken on the basis of a letter written by the District Education Officer. The petitioner's case is that he has already cleared his intermediate examination and in support of that, he has appended Annexure 2 series which is the provisional certificate granted and which indicates that he has passed the intermediate examination on 25.05.2008 that is much prior to 04.07.2008 when such instruction was issued by the State Government.

This issue is no longer *res integra* as the same was decided by this Court in **Rehana Khatoon Vs. the State of Bihar & Ors. [2013(2) PLJR 469]** holding that if a person has cleared the intermediate examination prior to coming of the notification concerned of the State Government then that notification cannot be applied retrospectively against such person.

In the facts and circumstances of the case, it is held that, since the petitioner has already cleared his intermediate examination before coming of the concerned notification, the same would not be applicable in his case.



That apart, this step was not taken immediately rather the petitioner was allowed to be absorbed as Panchayat Teacher under the aforesaid Rules and after about 10 years, this issue has been raised by the respondent authority.

In my view, such action is not at all sustainable in law. Accordingly, Annexure 3 is quashed and set aside. The authorities are directed to pay the current salary immediately and arrears of salary of the petitioner expeditiously preferably within a period of three months from the date of receipt/production of a copy of this order.

This disposes of the writ application.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2017
Transmission Date	NA

