

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3718 of 2013

IN

Civil Writ Jurisdiction Case No. 1864 of 2012

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1. Rajendra Prasad Sharma, son of late Bhagwan Prasad Sharma, resident of New Area, behind S.K.M. College, P.S. and District-Nawada
 2. Poonam Kumari, wife of Dr. Ashok Sinha, New Area, Nawada, P.S. and District-Nawada
 3. Jagdish Mehta, son of Late Sajjan Mehta, resident of New Area, near Modern English School, P.S. and District-Nawada

.... Petitioner/s

Versus

1. The State of Bihar, through Shri Amarjeet Sinha, Principal Secretary, Education Department, Bihar, Patna
2. Shri R.K. Khandelal, Vice Chancellor, Magadh University, Bodh Gaya
3. Dr. D.K. Yadav, Registrar, Magadh University, Bodh Gaya
4. Dr. Geeta Sinha, Professor-in-Charge, Rajendra Memorial Women's College, Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinava Srivastava
For the State	:	Mrs. Binita Singh, SC 28 Mr. Nishant K Jha, AC to SC 28
For the University	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 21-09-2017

Contending that order passed on 21.01.2013 in CWJC No.
1864 of 2012 has not been complied with this application has been



filed for initiating action for contempt.

The order passed in the writ petition indicates that the respondent University was directed to make payment of arrears of salary admissible to the petitioners within three months from the date of receipt/production of a copy of the order and the State Government was directed to release the fund.

Even though there is a delay in making payment of the salary the University has brought on record detailed documents indicating that salary admitted and payable to the petitioners have been paid. In the supplementary show cause filed by respondent nos. 2 to 4 on 10.07.2017 it is indicated that a sum of Rs.81,03,143/- was released by the State Government after calculation of the admissible amount was made by the concerned sections of the State Government in the Director of Higher Education and forwarded to the University vide Annexure-3 on 30th November, 2016 and the detailed calculation chart was indicated that the same amount has been disbursed by the University to the institutes concerned and colleges have made payment to the teachers including the petitioners as is detailed in the payment sheet enclosed along with the document.

However, now the petitioners, bring on record a calculation made by the institute available at page-8 of the



supplementary affidavit filed on 28.08.2017, point out that the calculation has not been done properly. They have been paid less amount than to which they are entitled to. Placing reliance on the statement made by the college available at page-8 of the supplementary affidavit the petitioners submit that the amount has not been paid. However learned counsel for the State Government and the University say that based on the records available with the Higher Education Department, the calculations have been made and the fund released to the University for payment of salary.

There is serious dispute between the State Government and the University on one side and the applicants on the other side. Based on the calculations made the applicants say that the amount paid is less than their entitlement. In the order passed in the writ petition it is indicated that the employees are entitled for payment of their admitted salary and the University and the State Government cannot deny the same to them. Accordingly, the only direction was that arrears of salary admissible should be paid after release of funds by the State Government. The amount admissible as per the calculation by the State Government and sanctioned has been paid by the University as is evident from the material available on record and now the petitioners are questioning the quantification and calculation of the amount. That being so, this Court is now required



to go into the dispute for determining the amount due and then direct for making payment. In the absence of there being any jurisdiction to do so in a contempt proceeding, I am afraid that the said exercise cannot be conducted by this Court. What is directed to be paid by the Writ Court was the admissible amount and once the amount admissible as per the calculation made by the State Government is granted. In case the petitioners have any grievance with regard to the said calculation, they are required to challenge the same and seek a direction in an appropriate legal proceeding before a court or authority having jurisdiction to do so. The same cannot be done in a contempt proceeding once there was no quantification of the amount or a specific direction to make payment of a particular amount, instead, the only direction was to pay the admissible amount. Now when the State Government and the University as per their calculation have paid the admissible amount this Court in exercise of its limited jurisdiction of contempt cannot cause any further enquiry and determine the dispute in this proceeding.

Accordingly, in the facts and circumstances of the case, finding no case made out for initiating any action for contempt the respondents are discharged from the proceeding and the application disposed of with liberty to the applicants to claim further benefit in case they have any grievance still subsists by taking recourse to the



remedy/procedure as may be permissible under law.

(Rajendra Menon, CJ)

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AFR/NAFR	NAFR
CAV DATE	C.A.
Uploading Date	22.09.2017
Transmission Date	N.A.

