

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19838 of 2012

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Gunanand Mishra son of Shri Nityanand Mishra, Resident of 201, Rishabh Apartment, Ashiyana Digha Road, P.S.- Shastri Nagar, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna
2. Director, Higher Education, Bihar, Patna
3. Lalit Narayan Mishra Institute of Economic Development and Social Change, Patna through its Director
4. Director, Lalit Narayan Mishra Institute of Economic Development and Social Change, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Advocate

For the State : Mr. Kumar Alok, SC-7

: Mr. Dr. Raj Kumar Singh, AC to SC-7

For the L.N.M. Institute : Mr. R.K.Shukla, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-07-2017

The prayers of the petitioner in paragraph-1 of the writ petition are as under:

“1. That the present writ petition has been filed with a prayer for grant of the following reliefs:

- (i) Issuance of a direction, order or writ including writ in the nature of mandamus commanding the concerned respondent authorities in the State of Bihar as well as Lalit Narayan Mishra Institute of Economic Development and Social change, Patna (hereinafter referred to as “the Institute”) to take steps towards fixing the pension of the petitioner and other retirement benefits, in a similar manner as a regular employee of the State Government;
- (ii) Issuance of a declaration holding that the petitioner is



entitled for pension and other retirement benefits by virtue of the services of the petitioner having been taken over/absorbed by the State Government pursuant to the coming into being of the Private Educational Institutions (Taking Over) Ordinance, 1986 [and later on Bihar Educational Institutions (take over) Act, 1987] as a regular employee of the education department of the State Government;

- (iii) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

2. Pursuant to the orders dated 29.03.2016 and 16.01.2017 passed by this Court, the respondents no.1 and 2 have filed supplementary counter affidavit stating therein that the Rule of service condition of teaching and non-teaching staff of L.N. Mishra Economic Development and Social Change Institute named as “Lalit Narayan Mishra Economic Development and Social Change Institute Service Condition Rules, 2017” has been determined and after approval from the State Cabinet, the same has been notified vide notification as contained in memo no.779 dated 28.06.2017. It is further stated by the respondents that the rights and claims of the petitioner will now be examined in terms of the aforestated notification dated 28.06.2017.

3. Learned counsel for the State has submitted that the Education Department of the State Government vide Letter No.828



dated 06.07.2017 has requested the Institute to take steps in accordance with the Rule of service condition of teaching and non-teaching staff of the institute.

4. After having gone through the statements made in the supplementary counter affidavit and submissions made by the learned counsel for the State, Mr. Abhinav Srivastava, learned counsel for the petitioner has submitted that the writ petition may be disposed of as there has been substantial progress in the matter, However, he has submitted that some outer limit be fixed for determination of the rights of the petitioner in terms of the recently notified Rules.

5. Having considered the submissions made above, the writ petition is disposed of with observation that the claim of the petitioner towards fixation of his pension and other retirement benefits be examined in terms of the aforestated Rules dated 28.06.2017 as early as possible, preferably within a period of four months. It is needless to say that the petitioner shall also co-operate with the respondents in completing the formalities, as may be necessitated in such exercise.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.07.2017
Transmission Date	

