

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14172 of 2016

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1. Md. Arif Hussain Son of Md. Manzoor Alam, resident of Village-Asiyani, P.S.- Kadwa, District- Katihar Petitioner

Versus

1. The State of Bihar through Secretary, Human Resource Development Department, Government of Bihar, Patna.
2. The Director (Primary Education) Government of Bihar, Patna.
3. The District Magistrate, District-Katihar.
4. The District Education Officer, District-Katihar.
5. The District Programme Officer (Esatablishment), District-Katihar.
6. The Block Development Officer, Block- Kadwa, District-Katihar.
7. The Block Education Extension Officer, Block- Kadwa, District-Katihar.
8. The Mukhiya Gram Panchayat Raj- Dhangama, Block- Kadwa, District-Katihar.
9. The Panchayat Secretary, Gram Panchayat Raj- Dhangama, Block-Kadwa, District-Katihar Respondents

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Appearance :

For the Petitioner : Mr. Nafisuzzoha, Adv.
For the Respondents : Mrs. Shilpa Singh, GA XII

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

2 05-02-2018 Heard the learned counsel for the petitioner and the learned counsel appearing for the State.

Many fold relief have been claimed by the petitioner in this writ application.

This writ application has a checkered history. The appointment of the petitioner was challenged before the District Appellate Authority (Teachers' Appointment) in Appeal No. 97 of 2011 vide order, dated 07.05.2012. Adverse order was passed by the Appellate Authority. Against that decision petitioner has filed C.W.J.C. No. 11309 of 2012. The said writ application was



dismissed vide order, dated 06.07.2012, and thereafter L.P.A. no. 1481 of 2012 was filed by the petitioner and pursuant to the observation in L.P.A. No. 1481 of 2012 fresh appointment process has taken place and the petitioner was appointed and now he is claiming for continuity in service from the date of initial appointment.

The learned counsel for the petitioner submits that the petitioner propose to file representation before the respondent-Director, Primary Education, and the writ application may be disposed off with a direction to the respondent-Director to take final decision on the representation, which he proposed to file along with a copy of this order.

Under the aforesaid circumstance, without going into the merit of the claim of the petitioner, this writ application is **disposed of** with a direction to the petitioner to file representation before the Director, Primary Education, Bihar, Patna, along with a copy of this order, within a period of one month and the Director, Primary Education, Bihar, Patna, is directed to dispose of the representation of the petitioner within a further period of three months in accordance with law.

It is made clear that this Court has not expressed any opinion on the claim and entitlement of the petitioner for counting



the part service on account of controversy as to the validity of his appointment and subsequent selection pursuant to the fresh advertisement.

So far as the claim of the petitioner for payment of salary is concerned, it shall be the responsibility of the respondent-Director, Primary Education, Bihar, Patna, to examine the relevant record and if it is found that the petitioner worked for the relevant period and there was no restrain order on his functioning, the respondent shall take appropriate decision in the matter of payment of salary within the aforesaid period of three months.

(Anil Kumar Upadhyay, J)

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