

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12041 of 2016

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Brajendra Kumar Mallick, Son of Late Ramsaran Singh, Resident of Village:- Shivpuri, Khalihanpur, Ram Chandarpur, P.S.:- Laheri, District:- Nalanda at Bihar Sharif.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Primary Education, Education Department, Bihar, Patna.
4. The District Education Officer, Patna.
5. The District Programmer Officer (Establishment), Patna.
6. The District Programmer Officer (Sarw Shiksha), Patna.
7. The District Provident Fund Officer, Patna.
8. The Treasury Officer, Patna.
9. The Treasury Officer, Barh, Patna.
10. The Account General, (A & E) Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 26-02-2018

Heard learned counsel for the petitioner; State and
Accountant General.

2. The petitioner has moved the Court for the following
reliefs:

“1. That this application is being filed for issuance of an appropriate writ/writs, direction/directions to the respondents authorities and for quashing the Letter No. 1192 dated 18/05/2013 and Memo No. 2995 dated 12/08/2015 issued under signature of Res. No. -5 by which the authority concerned have been directed to recover the amount Rs. 18,28,000.00 from the retrial dues and for grant following relief/reliefs:-

(i) For direction to the respondents for making payment of amount of arrear of pension



w.e.f. 01/02/2011 to 30/06/2014, gratuity, earn leave and for making payment of difference of pension after revising the pension in accordance with law and for other consequential benefit for which the petitioner is entitle.”

3. As matter relates purely to factual aspects, normally the Court would not have entertained the writ at the very threshold. However, the submission of learned counsel for the petitioner, which appealed to the Court, that he was not alone in the exercise of getting the school building constructed and was one of the members of the Committee and further, that there was also a technical person, who was more qualified to point out to any shortcoming, which had not been done, the Court had directed the Principal Secretary of the Education Department to get an enquiry made as to who all were responsible and involved in the construction which has been made and it is totally substandard. Pursuant to the same, a report has been submitted in which it has been found that the petitioner along with the President of the School Education Committee as well as Secretary of the Committee and the Technical Supervisor were directly responsible and it has also been recommended for the amount being equally recovered from the four of them and further that the Technical Supervisor should be removed from service.

4. With such facts before the Court, where there is no



reason to disbelieve what has come in the report and further the stand of the petitioner being at the initial stage that he alone was not responsible, the Court made a direct query to learned counsel for the petitioner as to whether the recommendations of the report were acceptable to him so that the Court may pass some order in the matter, he submitted that he would be challenging the said report.

5. In view thereof, as matters now remain totally in the realm of fact finding, the relief prayed by the petitioner in the present writ application cannot be granted at the present stage, especially under the writ jurisdiction of the Court under Article 226 of the Constitution of India.

6. In view thereof, the writ petition stands disposed off with liberty to the petitioner to move before the appropriate forum, in accordance with law, for redressal of his grievance.

(Ahsanuddin Amanullah, J.)

P. Kumar

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