

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18363 of 2017

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Primary Vidyalya, Yogna Baghiwardiha Under Nawada District through Its Head Master Sri Bhagwan Chowdhary Son of Late Bhubneshwar Chowdhary, Resident of Village- Khojpura Warsaliganj, P.S.- Warsaliganj, District- Nawada, (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Primary Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Department of Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Gaya.
5. The District Superintendent of Education, Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navin Kumar Sinha, Advocate
For the Respondent/s : Mr. Arvind Kumar, AC to GP23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 14-03-2018

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

2. The claim of the petitioner is with regard to taking over the school in question and payment of salary to the teaching and non-teaching staff of the school. The claim is based on the fact that physical verification was done by the respondents for the purpose of taking over of the schools under the scheme of Bihar Elementary Schools (Taking Over and Control) Act, 1976.

3. It is not in dispute that neither the school in question has been taken over till date by the State Government nor the services of the staff have been taken over by the State Government. In fact,



in the year 1993 the Cabinet took a conscious decision not to take over any school and the State Government is uniformly maintaining the stand and after a decision of the Government in the year 1993, no school was taken over and as such the petitioner cannot claim, as a matter of right, take over of the school in question under the scheme of Bihar Elementary Schools (Taking Over and Control) Act, 1976.

4. After 2006 the State Government took a policy decision to create posts of Panchayat Shikshak and a large number of teachers have been appointed as Panchayat Shikshak under the scheme of 2006 Rules, which was amended from time to time.

5. Learned counsel for the petitioner has submitted that once the respondents have made physical verification of the schools in question, they are under obligation to take over the schools and recognize the services of the petitioners working in those schools and ensure payment of salary.

6. In the matter of policy decision scope of interference is very limited. The state Government took decision not to take over any school in the year 1993 itself and as such the Court is unable to issue any positive direction to the respondents in the present batch of writ petitioners either to take over of the institution or recognize the services of the petitioners, who are



working in the privately managed institutions and make payment of salary.

7. In view of the aforesaid facts and circumstances, the Court is not inclined to issue any direction in favour of the petitioners as the Court cannot issue direction or mandamus to take over of the schools as no statutory right is either created under the Act or on physical verification of the schools for either take over or payment of salary which is enforceable in writ jurisdiction.

8. The writ petition is devoid of merit. It is accordingly, dismissed.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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