

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16893 of 2017

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Vijay Kumar Singh Son of Dharmdev Singh Resident of Village- Singhpur,
P.S. Bijaipur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Education Department, Govt. of Bihar, Patna.
2. Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Gopalganj.
5. The District Programme officer Gopalganj.
6. Block Education Officer, Vijaipur, District Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mritunjay Prasad Singh, Advocate Mr. Dilip Kumar, Advocate
For the Respondent	:	Mr. Ashutosh Ranjan Pandey.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 08-03-2018 Heard learned counsel for the petitioner and the counsel
appearing on behalf of the State.

Vide order dated 1.12.2017, six weeks time was granted
to the respondents to file counter but neither counter affidavit
was filed nor grievance of the petitioner was redressed.

Learned counsel for the petitioner submits that similarly
circumstanced others have approached this court vide C.W.J.C.
No. 12310 of 2016 and this court vide order dated 3.3.2017
passed the following order:-

**“The admitted position is that the
petitioners were appointed in view of the
direction given by the District Teachers
Employment Appellate Authority, Gopalganj.**



However, vide Annexure-7 dated 31.05.2016, the District Programme Officer(Establishment) Gopalganj had directed the Block Development Officer, Block Education Officers and the Panchayat Secretaries of Gopalganj District not to offer appointment in certain cases, in view of the direction of the State Government that any direction for appointment given by the District Teachers Employment Appellate Authority on such posts for which the selection process has already been concluded, should not be obeyed without taking permission of the State Government, otherwise, action would be taken against the erring officer. Further direction was given that no work should be taken from such persons.

Mr. P.K. Sahi, learned senior counsel appearing for the petitioners submits that once a decision is taken by the District Teachers' Appellate Authority it would bind all the parties unless the same is altered, modified or set aside by any competent forum.

It is contended that the authorities have not preferred any appeal or not moved before any authority for setting aside such order and , as such, it has to be complied. The petitioners were admittedly appointed, thus, without any rhyme or reason their salary cannot be stopped and they cannot be stopped from working at their respective places of posting.

In support of such submission, Mr. Shahi places reliance upon a decision dated 13.09.2010 passed by a Co-ordinate Bench of this Court, as contained in Annexure-14 appended to the rejoinder to the counter affidavit filed by the petitioner.

Learned counsel appearing for the State has submitted that the order of Authority is wrong as in view of the order of a Co-



ordinate Bench of this Court rendered in some other case holding that the Appellate Authority cannot direct for appointment of a person.

Be that as it may, even if it is assumed that the Authority has passed right, wrong or indifferent order. But, in case the order has attained its finality since decision given by it has not been challenged before any competent forum, the settled legal principle would be that it would bind the parties and, as such, until that order is in existence, it would have binding effect upon the State authority.

That apart, after petitioners were appointed in compliance of the order passed by the Appellate Authority, without taking any action for their removal or termination, an order of stopping them from working or not paying salary, cannot be passed by the State Authority.

Thus, in my considered view, the impugned order, as contained in Annexure-7 is not at all sustainable in law and, as such, the same is quashed and set aside. The petitioners would continue to work and their salary should be paid.”

Counsel for petitioner submits that similarly circumstanced others have been granted the benefit of continuity and payment of salary but petitioner was denied the same on the ground that he was not petitioner in C.W.J.C. No. 12350 of 2016. If that is stand of the respondents, the court fails to appreciate the such stand in view of the litigation policy of the State Government where the State has professed its policy that in similar matter instead of insisting on employee to obtain



similar order from the court similar benefit should be extended to similarly circumstanced.

Considering the fact that no counter affidavit has been filed on behalf of the respondents and the claim of the petitioner that similarly circumstanced others have been granted benefit in terms of C.W.J.C. No. 12350 of 2016, the writ petition is disposed of with direction to the respondents District Programme Officer (Establishment), Gopalganj to look into the grievance of the petitioner and if the case of the petitioner is found similar to the case of petitioners in C.W.J.C. 12350 of 2016 similar benefit should be extended to the petitioner also.

The entire exercise in this regard must be taken within a period of sixty days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

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