

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11241 of 2016

=====

Badri Narayan Singh, S/o Brij Lal Singh, Resident of Village-Laskaria, P.O-Selra Via Kazauli, P.S-Jai Nagar, Distt-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Deputy Development Commissioner Cum Chief Executive Officer, Zila Parishad, West Champaran, Bettiah.
4. The District Education Officer, West Champaran Bettiah.
5. The District Programme Officer (Establishment), West Champaran, Bettiah

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Brajesh Kumar, Advocate
For the State : Ms. Nutan Kumari Sharma, AC to GA-1

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 12-03-2018

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

2. The dispute in the present writ petition is payment of salary for the period 07.08.2013 to 28.01.2014.

3. Learned counsel for the petitioner submits that the petitioner has discharged the responsibility as teacher in the High School.

4. In the counter affidavit stand has been taken by the respondents that the petitioner cannot take advantage of his own wrong and as such he is not entitled to back wages.

5. There is no averment in the counter affidavit that the petitioner has practiced fraud or misrepresentation in his



appointment, all that was done, was by the competent authority and after taking work the competent authority is required to work out the payment of salary/honorarium for the period the petitioner has worked. There may be dispute as to who is to make payment for the period but the petitioner cannot suffer on account of lapse of the respondent-authorities. No work is gratuitous and rendering the service for the period as indicated hereinabove, the petitioner is entitled to back wages. The Director, Secondary Education is required to examine the record and on verification of the record, if the Director finds that the petitioner has worked and there is no manipulation or misrepresentation or fraud practiced by the petitioner, he will pass order for necessary payment of back wages/honorarium and the amount payable to the petitioner shall be realized from the erring Officers for whose lapses the petitioner was appointed and discharged the duty. The entire exercise in this regard must be done by the Respondent-Director within a maximum period of three months from the date of receipt/production of a copy of this order.

6. The decision in this regard may be taken by the respondent-Director after giving opportunity of hearing to all involved in the selection process of appointment of the petitioner and, prima facie, identified as responsible Officer.



7. The Court is of the view that power in our system is a trust and Officer, howsoever high, cannot act arbitrarily. Every Officer has to take responsibility for his mala fide, without jurisdiction and illegal act, if any, in the decision making process.

8. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.03.2018
Transmission Date	

