

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.506 of 2016

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Shivshankar Thakur, son of Late Ram Lakhan Thakur, resident of Village - Mahua,
P.S.- Saharghat, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Madhubani.
5. The District Education Officer, Madhubani.
6. The District Programme Officer (Establishment), Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur-2, Advocate

For the Respondent/s : Mr. Umesh Kumar Roy, AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 06-03-2018

Heard learned counsel for the petitioner and State.

This writ application has been filed on 08.01.2016
after service of two advance copies to the office of learned Advocate
General. More than two years have passed, yet no counter affidavit
has been filed.

Learned counsel for the petitioner submits that during
the Pendency of the writ application, the petitioner was granted
notional promotion, but he has been denied monetary benefit.

It is now well-settled that the respondents cannot
deny the monetary benefit taking advantage of its own wrong, if the
petitioner is entitled for grant of promotion.

In view of the above, the writ application is disposed



of with a direction to District Education Officer, Madhubani (respondent no.5) to examine the claim of the petitioner and if it is found that any person, junior to the petitioner, has been granted monetary benefit, the monetary benefit must reach the petitioner within 60 days form the date of receipt/production of a copy of this order.

In case of failure to grant monetary benefit, the petitioner would be entitled to interest at the rate of 9% per annum from the date of its accrual to the date of actual payment and the same shall be born out from the pocket of officer, who is responsible for delay in considering for grant of promotion. The notional promotion is an eye wash and it cannot be used to deprive the monetary benefit to the petitioner and approving such illegal action would amount to illegality.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.03.2018
Transmission Date	

