

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18923 of 2014

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1. Janardan Prasad Yadav S/o - Late Bhagwat Yadav R/o - Village + P.O. Makuna,
Via - Garh Baruari, P.S. - Bihra, Dist. - Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Human Resources Department, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Koshi Commissioner, Saharsa.
4. The District Education Officer, Saharsa.
5. The District Programme Officer, Saharsa.
6. The Block Extension Officer, Kahra, Saharsa.
7. The Headmaster, Middle School, Makuna, Bihra, Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Jha

For the Respondent/s : Mr. MANOJ KR. AMBASTHA

Mr. Hansa Jha, A.C.26

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 06-08-2018

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

From the materials available on record, it does not appear that the competent authority has appointed the petitioner.

Learned counsel for the petitioner submits that petitioner had worked for merely three decades although there is no appointment letter by competent authority. The documents placed as Annexure'9' onwards indicate that petitioner was allowed to work by the head master of the school who is not the competent authority to make any appointment. The other document indicates that the application of the petitioner was forwarded to the District Superintendent of Education, Saharsa but there is no decision by the District Superintendent of



Education, Saharsa in favour of the petitioner. Order contained Annexure ‘12’ which is impugned in the instant case was passed by the Principal secretary. The Principal Secretary has discussed the entire facts of the case not only the petitioner was heard in the mater but the principal Secretary has also allowed the counsel for the petitioner to assist Principal Secretary during the course of the hearing.

After going through the entire materials available on record, the Court does not find any infirmity so far the order contained in Annexure ‘12’ is concerned as the appointment of the petitioner was not in accordance with law. However, if the petitioner has worked for such a along period, then his case may be considered in the light of the judgment of the Hon’ble Apex Court in the case of *Amarkant Rai Vs. State of Bihar (2015) 8 SCC 265..* If on verification of record, it is found that the petitioner has actually worked for three decades as asserted by the petitioner then necessary order may be passed by the Principal Secretary of the Education notwithstanding Annexure-12 in the light of the decision of **Amarkant Rai (Supra)** within a maximum period of six months from the date of receipt / production of a copy of this order.

With the aforesaid observation and direction, this writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14/08/2018
Transmission Date	NA

