

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19141 of 2015

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Akhilesh Pandey S/o Sudarshan Pandey, resident of village and Post -
Malaur, P.S. Charpokhari, District - Bhojpur at Arrah

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director (Primary Education) Govt. of Bihar, Vikas Bhawan New
Secretariate, Patna
3. The District Education officer, Bhojpur at Ara
4. The District Programme officer (Easts), Bhojpur at Ara
5. The Block Development officer, Charphokari, District Bhojpur at Ara
6. The Block Education officer, Charpokhari, District Bhojpur at Ara
7. The Mukhiya, Gram Panchayat Raj, Malaur, Block Charpokhari, District
Bhojpur at Ara
8. The Panchayat Secretary, Gram Panchayat Raj, Malaur, Block Charpokhari,
District Bhojpur at Ara

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Atul Kumar Pandey
For the Respondent/s	:	Mr. Vishwa Ranjan Choudhary, SC 27 Mr. K K Tiwary, AC to SC 27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 03-12-2018

Heard learned for the parties.

From the pleadings it appears that there is cloud over the appointment of the petitioner and the dispute as to the counselling held by the District Teachers Employment Appellate Authority, Bhojpur in Case Nos. 84/2012, 157/2010, 160/2010, 29/2011 and 57/2011. The Appellate Authority on consideration of the entire fact directed the employment unit to take steps to ensure counselling of the petitioner, Subodh Kumar Vidyarthi, Shashi Kumar Suman, Sushila Kumari and Hajari Prasad Singh. In view



of the aforesaid, appointment of the petitioner is under cloud. However, the office order rejecting the claim of the petitioner for payment in the absence of any decision as to the legality and validity of his appointment, is unsustainable as the petitioner is regularly working and so long the respondents are taking work they are obliged to make payment of salary to the petitioner. Suspicion in the matter of appointment cannot be a ground to deny salary and suspicion howsoever strong ground does not partake the character of proof. At the highest, on the basis of the observations of the Appellate Authority, the respondents may take appropriate decision but without taking any such decision against the petitioner denying salary is impermissible.

After Annexure-6 there is no finding that appointment of the petitioner is invalid. Until appropriate decision is taken holding the appointment of the petitioner as invalid, petitioner would be entitled to full salary. Accordingly, Annexure-8 is quashed. The respondents are directed to make payment of salary of the petitioner for the period the petitioner has actually worked until further decision as to the validity of appointment is taken by the respondents.



The arrears of salary must be paid to the petitioner at the earliest, preferably within a period of four months 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)

mrl./-

AFR/NAFR	NAFR
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