

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18202 of 2014

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1. Onkar Nath Pandey, S/o Upendra Nath Pandey, Resident of Village and Post - Sarsar, P.S. - Mufasil Siwan, Dist. - Siwan
 2. Omprakash Pandey, S/o Upendra Nath Pandey, Resident of Village and Post - Sarsar, Dist. - Siwan
 3. Madhuri Devi, W/o Dharmanath Tiwari, Resident of Village - Nauadih, Post- Khujhwa, Dist.- Siwan
 4. Anil Kumar Pandey, S/o Sri Chandradeep Pandey, Resident of Village - Piparahiya, Dist.- Siwan
 5. Rinki Kumari, W/o Sri Ravindra Dubey, Resident of Village - Kanhauli, Post - Bhikhpur, Bhagwanpur, Dist. - Siwan
 6. Surendra Narayan Singh, S/o Ram Sakal Singh, Resident of Village- Kaji Patiyav, Post- Nandpur, Amavari, Dist. - Siwan
 7. Sima Kumari, D/o Upendra Nath Pandey, Resident of Village - Piparahia, Post- Arua, Bhagwanpur, Dist. - Siwan
 8. Prabhashankar, S/o Sri Pramendra Singh, Resident of Village- Barliga Prasotim, Post - Betimpur, Dist. – Siwan
- Petitioner/s

Versus

1. The State of Bihar
 2. The Director, Primary Education, H.R.D., Patna, Bihar
 3. The District Education Officer, Siwan
 4. The District Program Officer (Establishment), Dist. - Siwan
 5. The Block Education Officer, Raghunathpur, Dist. - Siwan
 6. The Block Education Officer, Andar, Dist.- Siwan
 7. The Block Education Officer, Badhariya, Dist.- Siwan
 8. The Block Education Officer, Goriakothi, Dist. - Siwan
 9. The Block Education Officer, Goriakothi, Dist. - Siwan
 10. The Mukhiya, Gram Panchayat Raj Badhariya, Block - Badhariya, Dist. - Siwan
 11. The Mukhiya, Gram Panchayat Raj Koirigava, Block - Badhariya, Dist. - Siwan
 12. The Mukhiya, Gram Panchayat Raj Harihar Kala, Block- Goriakothi, Dist. - Siwan
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. P. K. Shahi, Sr. Advocate
Mr. Bijay Shankar Choubey, Advocate
For the Respondent/s : Mr. Sanjay Kumar, AC to SC-15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 07-09-2018

Pursuant to order dated 30.08.2018, the District Programme Officer (Establishment), Siwan is physically present in Court. He has given undertaking that henceforth he will see that proper response is given to the correspondence and telephonic call of the State counsel so that the State counsel may properly represent the



case of the State in the pending writ application.

3. In view of the undertaking of the District Programme Officer (Establishment), Siwan, personal appearance of District Programme Officer (Establishment), Siwan is dispensed with.

4. Heard learned counsel for the petitioners and State.

5. The grievance of the petitioners in the present case is non-payment of salary.

6. Mr. P.K. Shahi, learned senior counsel appearing on behalf of the petitioners referring to the order passed by the District Teachers Employment Appellate Authority, Siwan dated 19.10.2009 submitted that the petitioners are still continuing and till date the services of the petitioners have not been dispensed with, so long as the services of the petitioners have not been dispensed with, the petitioners are entitled to payment of salary.

7. Learned counsel for the State submits that against the decision of the District Teachers Employment Appellate Authority, Siwan, there is provision of appeal and in similar matter this Court has granted liberty to the State to prefer appeal before the State Appellate Authority. He refers to Annexure-C to the counter affidavit filed on behalf of respondent no.3, the order passed by this Court in C.W.J.C. No. 250 of 2017 dated 14.03.2018.

6. In view of the order passed by this Court in C.W.J.C. No. 250 of 2017 dated 14.03.2018, the State may prefer appeal before the State Appellate Authority against the decision of the



District Teachers Employment Appellate Authority, Siwan dated 19.10.2009.

7. Notwithstanding availability of appeal, the order passed by the District Teachers Employment Appellate Authority, Siwan dated 19.10.2009 has to be given its effect unless and until the same is interfered by the competent court or the appellate authority. Right to prefer appeal is a statutory right and any aggrieved can avail that right. The Court will not come in the way of the State to prefer appeal, but so long the appeal is not preferred against the order of the District Teachers Employment Appellate Authority is not interfered by the competent court or the appellate authority, the respondents are under obligation to implement the order passed by the District Teachers Employment Appellate Authority and in particular to pay the salary for the period the petitioners have actually worked or continued to work. The salary of the petitioners must be paid within a period of four months from the date of receipt/production of a copy of this order.

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

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2018
Transmission Date	

