

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1588 of 2015

In
Civil Writ Jurisdiction Case No.5858 of 2015

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Pradip Paswan, son of Laldhari Paswan, resident of Village- Bariyan, P.S.-
Rupauli, District- Purnia.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director (Administration)-cum-Additional Secretary, Education
Department, Govt. of Bihar, Patna.
4. The Director, Primary Education, Bihar, Patna.
5. The Regional Deputy Director of Education, Purnia.
6. The Deputy Director, Primary Education, Education Department, Bihar,
Patna.
7. The District Education Officer, Katihar.
8. The District Program Officer, Katihar.
9. The Collector, Katihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Mishra, Advocate
For the Respondent/s : Mr. Lalit Kishore, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

10 26-02-2018 In paragraphs 7 and 8 of the supplementary counter
affidavit the State Government has made the following
assertions:

“7. That so far as specific query made by the
Hon’ble Court regarding compliance of Rule 97(3)
of Bihar Service Code before withholding salary
for the period of suspension is concerned, it is
humbly stated that admittedly, procedure in terms
of Rule 97(3) could not be followed before
issuance of order of punishment, as no separate



show cause notice was issued to the writ petitioner/appellant in this regard.

8. That however, the answering respondent humbly prays that liberty may be granted to take appropriate decision in respect of salary for the period of suspension after following the provisions of rule 97(3) of the Bihar Service Code which could not be complied earlier inadvertently.”

In view of the above, it is clear that the action taken for withholding the salary for the period of suspension is without following the due process of law and without issuing notice and, therefore, we allow the appeal, quash the order passed by the Writ Court and direct for payment of salary for the period in question when the petitioner was under suspension, subject to right, if any, available to the State Government to take action afresh in accordance with law. The amount of salary be paid within sixty days.

With the aforesaid, the appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

spandey/-

(Anil Kumar Upadhyay, J)

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