

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9204 of 2012

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Parmeshwar Chaudhary Son Of Late Ram Lakhan Chaudhary Resident Of
Village And P.S.-Babubarahi, District-Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government Of Bihar, Patna
3. The Addl. Secretary, Education Department, Government Of Bihar, Patna
4. The Director, Primary Education, Education Department, Govt. Of Bihar, Patna
5. The District Magistrate, Madhubani
6. The District Education Officer, Madhubani
7. The District Programme Officer (Establishment), Madhubani
8. The Chief Accountant General (Audit), Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Advocate
For the State : Mr. Suresh Kumar, AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 06-07-2018

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

2. The petitioner is aggrieved by the order dated 20.4.2011, Annexure-8. From perusal of the said order it appears that the petitioner was fastened with the liability of payment of Rs. 20,000/- on the ground that during the aforesaid period the petitioner was not engaged in teaching work but he was deputed for election duty and he has discharged election duty.

3. Earlier also this Court has the occasion to come across such type of absurd order. If the petitioner refused to join election duty he is liable to be prosecuted and disciplinary action. If he



carried the direction and discharged the duty at the dictates of the district administration in election duty then he has to suffer the liability of recovery of salary paid during that period on the alleged objection of office of Accountant General that the petitioner has not discharged teaching duty.

4. The Court is not in a position to understand this absurd approach of the Education Department. Earlier this Court had observed that if the Court finds repeated instance of order of recovery in the name of non-performance of teaching job but doing election duty, the court will consider the desirability of fixing accountability.

5. In the aforesaid circumstances, the Court is left with no option but to direct the Director, Primary Education to fix accountability by causing an enquiry as to under what circumstances the District Superintendent of Education, Madhubani has passed this absurd order. He is also required to issue guideline to all concerned officials of the Education Department that henceforth no such orders are passed by the officers of the Education Department and if any such order has been passed, the officers are required to recall such order.

6. Under the aforesaid circumstances, the order dated 24.4.2011, Annexure-8 is hereby quashed. In case any recovery



was made from the petitioner, the same should be returned to the petitioner forthwith.

7. In the peculiar facts of this case the State has to bear the cost of litigation as this kind of litigation are forced litigation. Accordingly, the respondents are directed to pay a cost of Rs. 25,000/- to the petitioner for compelling the petitioner to approach this Court for agitating his grievance against the order contained in Annexure-8.

8. It is made clear that if any such objection has been raised by the office of the Accountant General, then the objection raised by Accountant General is absurd and the office of the Education Department is directed to ignore such objection henceforth.

9. Learned counsel for the respondents submits that it is not a solitary case of the petitioner but in the matter of 109 such teachers orders have been passed for recovery.

10. It is well advisable that the Principal Secretary of the Education Department may take immediate corrective measures and direct recall of the order with regard to all the 109 teachers, who have been saddled with the liability of recovery of salary on the ground of not imparting teaching job but engaged in election duty.



11. With the aforesaid, the writ petition stands disposed of.

12. Let a copy of this order be communicated to the Principal Secretary of the Education Department for the needful.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07.07.2018
Transmission Date	

