

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25308 of 2013

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Mukti Narayan Rai Son Of Late Ram Singhasan Rai Resident Of Village-
Bodarhi, P.O. + P.S.- Dawat, District- Rohtas, At Present Working As
Assistant Teacher In Project Girl's High School, Dawat, District- Rohtas

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Human Resources
Development Department, Bihar, Patna
2. The Director, Secondary Education, Human Resources Development
Department, Budha Marg, Bihar Patna
3. The Deputy Director, Secondary Education, Human Resources Development
Department, Budha Marg, Bihar Patna
4. The Regional Deputy Director (Education), Patna Division, Patna
5. The District Education Officer, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sheel Bhadra Jha, Advocate
For the Respondent/s : Mr. Sanjeet Kumar Singh, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 25-09-2018

Heard learned counsel appearing on behalf of the
petitioner. Despite repeated calls no one appeared on behalf of the
State.

The writ petition was filed on 19.12.2013 with two
advance copies served on the office of the learned Advocate
General. Unfortunately, even after expiry of approximately five
years the respondents have not filed counter affidavit.

The grievance of the petitioner in the instant writ
application is pick and choose by the concerned authorities in the
matter of grant of approval of service of the teaching and non-



teaching staff of the Project Girls High School, Dawat in the district of Rohtas, and non-payment of salary and other benefits to the staff of the school in question.

Learned counsel for the petitioner submits that after judgment of the Apex Court in Civil Appeal No. 6625-75/2001 and Civil Appeal No. 6676/2001, 210 schools were selected vide notification dated 19.02.2008. Learned counsel for the petitioner has drawn the attention of this Court to Annexure-10 to the writ petition wherein the name of the school of the petitioner is placed at sl. no. 30. Subsequently, vide Annexure-11 dated 09.02.2010 decision was taken for sanction of posts in Project School as permanent. Thereafter appropriate funds were also allocated for payment of teaching and non-teaching staff of 210 Project Schools. Learned counsel submits with reference to the order dated 20.09.2013 passed by a Co-ordinate Bench of this Court in CWJC No. 4862 of 2011 (Anil Singh vs. State of Bihar & Ors.). While allowing CWJC No. 4862 of 2011 the learned Bench considering all the facts and procedures of selection of the Project Schools and on noticing the notification dated 19.02.2008 (Annexure-10 to the present writ petition) held out as follows:-

“6. that it is not denying that the school is in existence but it is not a Project School strictly. It is a school started by the State and under the control of the



State. I fail to understand the stand of the State whether as a Project School or as a school established by the State, in either event, it is one or the other section/department of the government that has to pay for the teachers. I find it dubious as to one department throwing the burden on the other. In the counter nowhere it has been denied that the school was not selected by the Three Men Committee. It is nowhere denied that the school was constructed by the fund allocated to the Bihar State Housing Board under the R.L.E.G.P. programme. It is not denied that teachers were then appointed, the list of whom is also, as notice above, available to the government. If these be conditions then government has to bear the expenses. Which department of the government and in what manner the expenses of the teachers and the non-teaching faculty have to be met, is for the government to decide. One department or one section cannot throw the burden on the other and abandon the school as an orphaned child. From the records noticed above, it is clear that school is not in existence merely on paper, it is working, it is functional. If that be so then there cannot be any escape on part of the State to provide adequate fund to the teaching and non-teaching staff who are there.

7. I accordingly allow this writ petition and direct the Director, Secondary Education, Government of Bihar in the Department of Education to take a decision within three months from the date of production of a copy of this order before him as to how



this school has to be funded and ensure that adequate funds are made available for the teaching and non-teaching staff of the school concerned.

8. With this observation and direction, this writ petition is allowed.”

Learned counsel for the petitioner submits that the case of the present petitioner is squarely covered by the decision of the Bench in the case of Anil Singh (supra) and the petitioner deserves similar treatment and as such the order contained in Annexure-12 cannot sustain.

Considering the fact that the name of the school in question figures at sl. no. 30 of Annexure-10 dated 19.02.2008, the order contained in Annexure-12 dated 19.04.2010 cannot sustain particularly when the respondents have issued notification Annexure-10 pursuant to the direction of the Apex Court and approved the selection of the school in question. In the totality of the circumstances, the Court is of the view that the judgment in the case of Anil Singh (supra) is applicable in the present case also.

Accordingly, this writ application is allowed. The order contained in Memo No. 136(P) dt. 19.04.2010 (Annexure-12) is quashed. Respondents are hereby directed to take decision for approval of the service of the teaching and non-teaching staff of the school in question following the direction dated 20th



September, 2013 in CWJC No. 4862 of 2011 (Annexure-15)
within a maximum period of four months from the date of
receipt/production of a copy of this order.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.09.2018
Transmission Date	N.A.

