

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23491 of 2013

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Nazima Banu Daughter Of Anisur Rahman Resident Of Village Dokhara, Post Office Sonaili, Police Station Kadwa, District Katihar, Presently Working As Prakhanda Teacher Upgraded Middle School, Nijhara, Block Kadwa, District Katihar

... .. Petitioner/s

Versus

1. The State Of Bihar , Through The Principal Secretary, Human Resources Development , (Primary Education), Government Of Bihar, Patna
2. The Director, Primary Education, Government Of Bihar, Patna
3. The District Magistrate, Katihar
4. The District Education Officer, Katihar
5. The District Programme Officer (Establishment) Education Department, Katihar
6. The Block Development Officer-Cum-Chairman Prakhanda Teacher Appointment Committee, Block - Kadwa, District - Katihar
7. The Block Education Officer-Cum-Secretary Prakhanda Teacher Appointment Committee, Block - Kadwa, District - Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jibendra Mishra, Advocate
For the Respondent/s : Mr. Amit Kumar Jha, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 01-08-2018

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

2. The grievance of the petitioner in the present writ petition is non-payment of salary despite the fact that the petitioner has been regularly working.

3. Learned counsel for the petitioner submits that from April, 2011 to September, 2013 and even thereafter the petitioner has been regularly working but not paid salary.



4. In the first counter affidavit stand has been taken by the District Programme Officer that the competent authority in the matter is Block Employment Unit. In the subsequent supplementary counter affidavit following stand has been taken in paragraphs 7 to 9 which is quoted below for ready reference.

“7. That it is submitted that as per the provision of appointment, candidates with two years teachers training qualification were only eligible to be considered for being appointed as trained Panchayat teacher, whereas admittedly the teachers training qualification of the petitioner was/is of one year duration.

8. That it needs to be stated that in connection with cases where appointments had been procured through wrongful method and by practising fraud, departmental direction had been issued through press notice (which was in due follow up to the order dated 22.06.2016 passed by the Hon'ble Court in CWJC No. 13459/2014 directing that those teachers who had managed to enter into service on the basis of forged educational and training certificate or through fraud and if they do not tender their resignatin within 09.07.2015, criminal case will be instituted against such teachers and amount paid against salary will be recovered and such teachers will be permanently debarred from getting into service under the State Government. A true photostat copy of the press notice is annexed herewith and



marked as Annexure- “A” to this supplementary counter affidavit.

9. That it is submitted that on having come to know of the aforesaid wrong committed on the part of the petitioner inasmuch as she had managed to enter into service on the basis of ineligible training qualification hence the deponent vide letter no. 2799 dated 20.10.2017 has communicated the concerned employment unit, Gram Panchayat Raj, Katiya to proceed further against the petitioner in terms of the aforesaid departmental direction (press notice) and also to file an appropriate counter affidavit in the connected case before the Hon’ble High Court stating therein about the subsequent action taken in the matter. A true photostat copy of the letter no. 2799 dated 20.10.2017 is being annexed herewith and marked as Annexure-”B” to this supplementary counter affidavit.”

5. Learned counsel for the petitioner submits that the certificate of the petitioner is genuine and he was validly appointed and till date the petitioner has not been removed. As such, the respondents are under obligation to make payment for the period the petitioner has actually worked.

6. Considering the totality of the fact situation, the writ petition is disposed of with a direction to the District Programme Officer (Establishment), Katihar to verify the record and if it is found that the appointment of the petitioner is valid and he has



actually worked, the District Programme Officer, Establishment, Katihar will ensure payment of salary for the period the petitioner has actually worked as the respondents cannot take work and deny payment of salary as it would amount to Begari which is prohibited one and violative of Articles 21 and 23 of the Constitution of India. The decision with regard to payment of salary must be taken by the respondents within a maximum period of 60 days from the date of receipt/production of a copy of this order.

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

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2018
Transmission Date	

