

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16149 of 2017

Arvind Kumar Satyarthi, aged about 59 years, S/o Sri Kailash Prasad Singh, R/o Mohalla- Jawahar Nagar, P.S.- Warisaliganj, Dist- Nawada, posted as Headmaster, National Inter School Mafi, Warisaliganj, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, New Secretariat, Patna.
2. The Principal Secretary, Department of Education, Bihar, New Secretariat, Patna.
3. The Director, Secondary Education, Department of Education, New Secretariat, Patna.
4. The Regional Deputy Director of Education, Magadh Division, Gaya.
5. The District Education Officer, Nawada.
6. The District Programme Officer (Establishment), Nawada.
7. The District Public Grievance Redressal Officer-cum-Additional Collector, Nawada.
8. The Treasury Officer, Nawada.
9. Binit Prasad Singh, S/o Bhuneshwar Prasad Singh, R/o Village & Post-Dumrawan, P.S.- Pakaribarawan, District- Nawada, presently posted as Assistant Teacher in Inter School, Mafi, Warisaliganj, Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Advocate Mr. Amarendra Kumar, Advocate
For the State	:	Mr. M. Prasad Yadav – GP-23
For resp. No.9	:	Mr. Rajendra Prasad Singh Sr. Advocate Mr. Ramsagar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 03-05-2018

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State as well as learned senior counsel appearing on behalf of respondent No. 9.

Pursuant to the order dated 20th of April 2018, the District Programme Officer (Establishment), Nawada is present. He has submitted before this Court that the petitioner was put



under suspension on the recommendation of the District Education Officer, Nawada.

There is controversy whether the appointment of the private respondent No. 9 was in accordance with law or not. At one point of time Department issued a blanket order without indication the guidelines how to proceed and when guideline was solicited by the petitioner, no guideline was provided by the Director, Secondary Education. It has become now customary in the Department of Education to fasten accountability for making payment on the pretext of verification of the proper certificate degree and validity of the appointment by the Drawing and Disbursing Officer.

The present case is celebrated example of the direction issued without any proper guideline and whenever guideline was solicited, no guideline was provided and as a result thereof the Director on the recommendation of the District Education Officer has put the petitioner under suspension on the pretext that he has not to make payment to respondent no.9.

The Court refrain from passing any comment on the legality or validity of the appointment of private respondent No. 9 as the the present writ application is confined to the validity of the order of suspension. After nearly four months of the order of



suspension, the respondents have issued praptra-Ka vide office order dated 08.01.2018.

Having regard to the controversy involved, the Court directs the Department of Education to ensure completion of the departmental proceeding within a maximum period of 60 days from the receipt/production of the copy of this order.

In the event it is found that there is no lapse on the part of the petitioner as the petitioner has filed different documents in the writ petition to highlight that he solicited the guidelines from the superior officers but that was not provided. If the guideline was not provided by the respondents, they cannot fasten accountability on the petitioner.

In view of the fact that the Enquiry Officer is the person, who recommended for suspension of the petitioner, fairness demands that he should not be associated with the departmental proceeding. The Director is hereby directed to appoint any other Enquiry Officer within a period of one week from today.

Failure in completion of enquiry within the time frame of 60 days as indicated hereinabove, will not only lead to revocation of suspension but the entire proceeding will come to an end.



It is needless to state here that in view of the judgment of the Apex Court in the case of ***State of Maharashtra v Chanderbhan***, [1983] 3 SCR 337 = [1983] 3 SCC 387 = ***AIR (1983) SC 803*** and the judgment of the Apex Court in the case of ***Capt.M. Paul Anthony vs Bharat Gold Mines Ltd. & Anr:1969 (1) SCR 134 = AIR 1969 SC 30***, the respondent- authorities are under obligation to ensure payment of subsistence allowance and if no subsistence allowance is paid the entire proceeding shall be treated to have been vitiated on account of non payment of subsistence allowance as held by the Apex Court in the Judgments aforesaid.

The personal appearance of the District Programme Officer is dispensed with.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04-05-2018
Transmission Date	

