

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15729 of 2016

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Suresh Prasad, Son of Late Sukhdeo Prasad, resident of village + P.O.
Kumawan, Via - Paraya, P.S. Koanch, District - Gaya

.... Petitioner

Versus

1. The State of Bihar
2. The Director (Primary Education) Education Department, Government of Bihar, Patna
3. The District Education officer, Gaya
4. The District Programme officer (Establishment), Gaya
5. The District Programme Officer (Sarva Shiksha Abhiyan) Gaya
6. The Block Education officer, Paraya, Gaya
7. The Treasury Officer, Gaya
8. The Accountant General, Bihar, Bir Chand Patel Path, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Nagendra Upadhyay, Adv.

For the Respondents : Mr. Jitendra Kumar Roy, SC XIII

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

5 04-01-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for payment of gratuity, pension and commutation of pension.

3. The issue now remains with regard to the stand of the authorities that due to loss suffered on account of escalation of cost of construction of school building which was attributable to the petitioner since even after his transfer in the year 2008 he continued to get the building constructed till the year 2012 from the amount which he had taken as advance resulting in there being escalation in price and the loss suffered by the State amounting to Rs.2,97,516/-, is recoverable from him.

4. It is an admitted position that gratuity, pension and commutation of pension has not been paid to the petitioner till date. From the records, it transpires that the Accountant General



has already issued authority relating to gratuity of Rs.8,25,330/-, monthly pension of Rs.11,420/- and commutation of pension for an amount of Rs.4,49,162/- on 9th March, 2016. In such background, when the amount payable to the petitioner far exceeds the claim of the State on petitioner, the Court is unable to understand as to why at least the amount, after withholding the dues against the petitioner, has not yet been paid to him. There cannot be any justification or explanation for withholding even the amount which is not claimed by the State as recoverable or adjustable from the petitioner.

5. In view thereof, the Court finds that the action of the authorities is arbitrary.

6. Coming to the issue of an amount of Rs.2,97,516/- recoverable from the petitioner, the Court does not find the stand of the State to be unreasonable for the reason that the petitioner, upon his transfer in the year 2008, had absolutely no authority to retain the money taken as advance and to keep-on utilizing that till the year 2012 and rightly the authorities have held him responsible for the delay, as the petitioner himself had taken a risk by continuing with the construction and him having delayed it causing escalation in the price, the loss would obviously have to be borne by the petitioner.

7. Considering the aforesaid, the writ petition stands disposed off with a direction to the respondents to pay the gratuity, commutation of pension and pension, along with arrears, to the petitioner after deducting an amount of Rs.2,97,516/-, within two months from the date of production of a copy of this order before the respondents no. 4 and 7. The same shall carry an interest of 9% from 9th March, 2016, till actual payment is made to the



petitioner. If payment is not made within the period fixed, the same shall carry interest of 12% which shall be recoverable from the Officer(s) responsible for such non-payment

(Ahsanuddin Amanullah, J)

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