

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8713 of 2015

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Soti Bhushan Prakash, Son of Late Joseph Prakash, Resident of
Village/Mohalla - Chaughara, Panchayat, - Hardi, Police Station - Supaul,
District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Education Department, Bihar.
2. The Principal Secretary, Human Resources Development Department, Bihar.
3. The Regional Deputy Director, Koshi Division, Supaul.
4. The District Education Officer, Supaul.
5. The Block Education Officer, Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar @ Vijay Kr. Singh

For the Respondent/s : Mr. Vipin Kumar Singh, AC to SC 22

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 11-12-2018

The instant writ petition has been filed by the petitioner for a direction to the respondents to hand over charge of Primary School, Lakshminiya, Supaul claiming that he is a regular permanent teacher and posted in the school since 2012 and as such he is entitled to be made Incharge Headmaster of the school.

The case was filed on 23.06.2015. It was listed in December, 2018 for admission but no one appeared on behalf of the petitioner to assist the Court. Observing reluctance on behalf of



the petitioner to pursue the case, the Court directed for listing of the case under the heading “For Dismissal”. Even under the heading for dismissal the case was listed on different dates, yet no one appeared on behalf of the petitioner. In the aforesaid circumstances, the Court is required to decide the writ application on the basis of pleadings available on record.

It is to be noted at the threshold that there is no post of Incharge Headmaster. It is devised only as stop gap arrangement keeping away the process of posting of regular headmaster only for some time.

On behalf of the respondents counter affidavit has been filed in which stand was taken that earlier the petitioner was found involved in financial irregularity and that is why he has been divested of the financial power. Referring to the show cause reply of the petitioner contention was made that the petitioner has not explained the situation under which the respondents have decided that he should not be granted financial power as in the school many schemes, like Poshak Rashi, Scholarship amount of pupils etc. are under the control of Incharge Headmaster and having such track record the petitioner does not deserve to be handed over the financial power. Although the petitioner in reply to the counter affidavit tried to explain that allegation against the petitioner is not



correct and he is entitled to restoration of his status of Incharge Headmaster of the school. Referring to letter no. 757 dated 16.09.2015 of the Block Education Officer, Supaul he has submitted that the Incharge headmaster of the school was directed to hand over the charge of the school to the petitioner.

Indisputably Block Education Officer is not the appellate or superior authority of District Education Officer and no relief can be granted to the petitioner based on the letter issued by the Block Education Officer. The plea that regular permanent teachers are entitled to become Headmaster does not appeal to this Court. The petitioner who is found involved in financial irregularity cannot claim as a matter of right posting as Incharge Headmaster holding financial power. The Court does not find any merit in the writ application.

The writ application is accordingly dismissed.

However, dismissal of the writ application will not be construed as liberty to the respondents to continue with the present position. The respondents are obliged to take steps for posting of regular headmaster in the school to avoid and rigors of dispute of *inter se* seniority and appointment of incharge headmaster in the school in question. Necessary decision in this regard will be taken



by the respondents within a maximum period of six 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	13.12.2018
Transmission Date	N.A.

