

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8228 of 2011

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Arun Kumar Tiwary S/O Late Jagat Narayan Tiwary , C/O Subodh Kumar Mishra
At & P.O.Bath, Via-Sultanganj, Distt-Bhagalpur

.... Petitioner/s

Versus

1. 1. The State Of Bihar through the Principal Secretary, Secondary Education Department Govt. Of Bihar, Patna
2. The Special Director, Secondary Education Sanskrit Govt. of Bihar, Patna
3. The Bihar Sanskrit Siksha Board Through Its Secretary Having Its Office At Boring Canal Road, East, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Namrata Mishra, Advocate
For the Respondent/s : Mr. Ajay Kumar, AC to GP-4
For the B.S.S. Commission : Mr. S. S. Sundram, Advocate
Mr. S. Shekhar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 19-06-2018

Heard learned counsel for the petitioner, Statej and
the Commission.

2. In the present writ application the petitioner has
prayed for a direction to the respondents for payment of salary.

3. The school in question falls in the category of 429
schools. The Ordinances were promulgated in relation to these
schools on different occasions and after lapse of Ordinance, the issue
of the effect of lapse of Ordinance was the subject matter of various
writ applications, which were finally adjudicated by the seven Judges
Bench of the Apex Court in the case of **Krishna Kumar Singh and
Another Vs. The State of Bihar and Others**, reported in (2017) 3



SCC 1.

4. Mrs. Namrata Mishra, learned counsel for the petitioner submits that the petitioner is entitled to all the benefits, which is admissible to the petitioner in terms of the position existing prior to promulgation of the Ordinances and in terms of the judgment of **Subhash Chandra Versus State of Bihar**, reported in (1994) 2 **PLJR 359**, rendered by this Court. She refers to various paragraph of judgment of Apex Court in the case of **Krishna Kumar Singh and Another** (supra), particularly, para 181 to contend that the Apex Court has protected the interest of employees like the petitioner. Para 181 is quoted herein below for ready reference:

“181. The directions given by the High Court (**Subhash Chandra Versus State of Bihar**, 1994 SCC (1994) 2 PLJR 359) for payment of salary (if not already paid) and interest thereon need not be disturbed. The reference is answered accordingly.”

5. Learned counsel Mrs. Mishra refers to various paragraph of the writ petition to contend that the petitioner was appointed within the sanctioned strength and as such the petitioner is entitled for payment of salary. This factual enquiry is to be done by the Sanskrit Shiksha Board and the Special Director, Secondary Education.

6. In view of the aforesaid, the writ application is



disposed of with a direction to the respondent Sanskrit Shiksha Board and the Special Director, Secondary Education to examine the case of the petitioner for payment of salary.

7. Accordingly, the Court directs the Sanskrit Shiksha Board and the Special Director, Secondary Education to undertake appropriate enquiry into the matter and take final decision with regard to the claim of the petitioner and if it is found that the petitioner is working against the sanctioned strength, the petitioner may be extended the benefit of salary, which was admissible prior to the promulgation of the Ordinance. Entire exercise in this regard must be taken by the respondents within a period of four months from the date of receipt/production of a copy of this order.

8. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.06.2018
Transmission Date	

