

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11433 of 2014

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Ratneshwar Jha, son of Late Sri Nikunt Jha, Resident of Village- Motipur,
P.O.- Akta, P.S.- Bairganiya, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Regional Education Deputy Director, Tirhut Pramandal, Muzaffarpur
3. The District Education Officer, Sheohar
4. The Headmaster, Government Basic High School, Bisahi, Piprahi, District-
Sheohar, P.S.- Bisahi
5. The Director, Primary Education, Government of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amish Kumar, Advocate
		Mr. Prabhakar Thakur, Advocate
For the Respondent/s	:	Mr. Ajay Kumar Rastogi, AAG

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 05-09-2018

Heard Mr. Amish Kumar, learned counsel for the petitioner and Mr. Ajay Kumar Rastogi, learned Additional Advocate General appearing on behalf of the State.

2. Pursuant to the order dated 16.08.2018 the outgoing and the incoming Regional Deputy Director, Tirhut Division, Muzaffarpur have appeared.

3. Mr. Ajay Kumar Rastogi, appearing on behalf of the State, has referred to the order dated 3.9.2010 passed by this Court in CWJC No. 2032 of 2003, as contained in Annexure 8 to the writ petition and the office order dated 08.07.2017, issued from the office of the Regional Deputy Director, Tirhut Division, Muzaffarpur, Annexure-B to the counter affidavit to contend that



the direction of the writ court to consider the case of the petitioner if any other junior to the petitioner was granted such benefit, has been carried out by the RDDE and Md. Kaphil was not junior to the petitioner and as such referring to the case of Md. Kaphil the case of the petitioner was rejected.

4. However, from the order as contained in Annexure-8 it appears that the court has passed order to consider the case of the petitioner, if any other junior to the petitioner has been granted such benefit. Accordingly, the Court in the peculiar facts of the case is constrained to hold that Annexure-B is not compliance of the order passed by this Court and as such the order Annexure-B is quashed.

5. Mr. Amish Kumar, learned counsel for the petitioner submits that during the pendency of the writ petition the original petitioner died and as such his heirs may be permitted to agitate the claim of the original petitioner as the present case relates to monetary benefits and as such the right to sue survives even after the death of the original petitioner.

6. The matter is remitted back to the Regional Deputy Director, Tirhut Division, Muzaffarpur to consider and decide afresh the claim of the petitioner after providing opportunity of hearing to the heirs of the original petitioner and pass order afresh



in the light of Annexure-8 and in case any person junior to the original petitioner has been granted the benefit of up-gradation/pay revision, the benefit of such revision and consequential monetary benefits shall also be extended to the petitioner. The Regional Deputy Director, Tirhut Division, Muzaffarpur is expected to decide the claim within a maximum period of three months from today.

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

8. The personal appearance of the Regional Deputy Director, Tirhut Division, Muzaffarpur is dispensed with.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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