

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13046 of 2014

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Anmol Kumar, S/o Ramphal Prasad Swarnkar, Presently posted as an Incharge Headmaster of Upgraded Middle School, Kupari Block Raniganj, P.O. Permanandpur, P.S. Raniganj, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Human Resources Department, Government of Bihar, Patna.
2. The District Magistrate, District Araria.
3. The District Programme Officer, District Araria.
4. The District Education Officer, District Araria.
5. The Block Education Officer, Raniganj, District Araria.
6. The Secretary of the Selection Committee, Panchayat Samittee, Raniganj, District Araria.
7. Shyam Kishore Yadav, S/o Shatrudhan Prasad Yadav, Resident of Village and P.O. Srinagar, District Madhepura. Presently posted as an Assistant Teacher, in the Upgraded Middle School, Kupari Raniganj, District Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy, Advocate

For the Respondent/s : Mr. Nand Kishore Singh, AC to GP-26

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 13-08-2018

Heard learned counsel for the petitioner and respondents.

In the present writ application, prayer is made for a direction for quashing of the letter dated 03.06.2014 and letter dated 01.07.2014.

Learned counsel for the petitioner submits that the petitioner was initially appointed as Siksha Mitra. Later on, the service of the petitioner was absorbed as Panchayat Teacher and being the senior most teacher he was working as incharge headmaster of the



school and he was asked to handover the charge to other teacher. He submits that the petitioner has not been paid salary, although the petitioner is regularly working.

Learned counsel for the respondents submits that the issue as to appointment of Panchayat Teacher as incharge headmaster is no more res integra.

This Court has already decided the issue in C.W.J.C. No. 6724 of 2008 vide order dated 23.01.2012. The relevant part of the order reads as follows:

“In that view of the matter, this Court will have no difficulty in holding that the making of Incharge Headmistress either by assigning the job to the petitioner or to the respondent no. 7 by the District Superintendent of Education was wholly illegal and this Court would, accordingly, quash both the orders directing the petitioner or the respondent no. 7 to work as Incharge Headmaster. In fact such orders Even otherwise are nullity in the eye of law, inasmuch as, the D.S.E by himself could not have made even such a working arrangement, inasmuch as, he was/is not the competent Authority to grant promotion on the post of Headmaster/Headmistress under the statutory Rule which prescribes grant of such promotion on any post of teacher only through the decision of the District Education Establishment Committee which consists of



District Magistrate, Deputy Development Commissioner, District Superintendent of Education, District Education Officer, District Inspector of Schools and the District Welfare Officer with the District Magistrate as the chairman of the Committee. Admittedly, in this case the order either authorizing the petitioner or respondent no.7 to work as Incharge Headmistress was passed by the District Superintendent of Education, without the matter being ever referred to the District Education Establishment Committee and as such the order of the District Superintendent of Education was not only in violation of the statutory Rules but also without jurisdiction.

Before parting with this Court, in view of the fact that a number of cases of this nature have been now emerging, would direct the Principal Secretary of the Education Department to issue clear directives to all the concerned Authorities in the district prohibiting them to make any arrangement even by way of Incharge on the post of Headmaster/Headmistress in an Elementary/Primary/Middle School by authorizing a Panchayat Teacher to work as Incharge Headmaster/Headmistress. As noted above these Panchayat Teachers are holding special type of appointment and are not members of the cadre of teachers of the district from whom amongst the post of Headmaster/Headmistress has to be filled up



either by giving regular promotion or even by making a Current Charge Arrangement. This Court hopes and believes that the Principal Secretary of the Human Resources Development Department with the approval of the State Government would make a firm, transparent and uniform policy for even making arrangement on the post of Headmaster/Headmistress and also by ensuring the posting of at least one person of the district cadre teacher in all Elementary Schools where the services of Panchayat Teachers are being utilized for imparting education. Such policy decision would be also necessary because the District Teachers Appellate Authority constituted under the Bihar Panchayat Teachers Appointment Rule 2006 are also seized with similar dispute of Incharge Headmaster/Headmistress in an Elementary School.

The abovesaid exercise must be completed by the Principal Secretary of the Education Department within a period of three months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction this application to the extent indicated above is allowed, but it is made clear that this order will not enure to the benefit of the petitioner in any manner for being made even Incharge Headmistress of the School in question.”



In view of the order dated 23.01.2012 passed in C.W.J.C. No. 6724 of 2008, the Court does not find any merit, so far as the claim of the petitioner as incharge headmaster is concerned. So far as the payment of salary is concerned, if the petitioner has actually worked for the period he is claiming salary, the respondent is required to workout the amount payable to the petitioner and ensure payment of the same within a period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.08.2018
Transmission Date	

