

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8708 of 2015

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Shashi Bhushan Kumar S/o Budhev Yadav, Resident of village - Hathvan,
P.S. Alauli, District - Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Human Resources Department, Patna
2. The Director, Human Resources Department, Patna
3. District Education officer, Khagaria
4. Block Development officer, Khagaria
5. The Principal, Kanya Madhaya School Utari Bhandas, Khagaria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate
For the Respondent/s : Mr. Arvind Kumar, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 05-12-2018

As prayed for, learned counsel for the petitioner is permitted to implead the District Programme Officer (Establishment), Khagaria as party respondent no. 6.

Heard learned counsel for the parties.

The issue involved in the present writ petition is refusal to accept the joining of the petitioner. Learned counsel appearing for the petitioner submits that the petitioner was undergoing treatment and as such he was on leave from 10.02.2012 to 06.05.2012. Intimation as to the ailment was given to the concerned Headmaster in advance. Learned counsel for the petitioner referring to Annexure-3 further submits that on



07.05.2012 the petitioner has submitted his joining along with medical certificate of fitness. The petitioner thereafter approached the District Education Officer, Khagaria for necessary direction with regard to acceptance of his joining. Since no decision has been taken by the respondent authorities on the issue of acceptance of joining of the petitioner, the petitioner has filed the writ petition on 23.06.2015.

On behalf of the respondents plea has been taken that the petitioner approached the Court after three years of the cause of action arose and as such the petitioner is not entitled to any relief. This submission has been advanced by learned counsel for the State who failed to file counter affidavit despite valid service of notice in advance to the office of the Advocate General. The Court does not approve the submission of the counsel appearing on behalf of the respondents who has failed to file counter affidavit even after more than three years and five months to raise the plea that the petitioner has approached this Court after three years of his grievance.

The Court, in the aforesaid facts and circumstances of the case, directs the District Programme Officer (Estt.), Khagaria to take appropriate decision with regard to the claim of the petitioner in connection with joining and if the application for



leave was supported by medical certificate of fitness, he has to see that the petitioner is allowed to join the school. Necessary decision in this regard may be taken by the District Programme Officer, Khagaria within one month from the date of receipt/production of a copy of this order failing which the petitioner shall be deemed to have been permitted to join and the respondents have to ensure payment of salary from the date of submission of his joining, i.e. 07.05.2012, and the amount payable to the petitioner should be the liability of the officials of the Education Department who have failed to take appropriate decision on the joining of the petitioner as the petitioner cannot be made to suffer due to lapse of the respondents.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
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