

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1459 of 2016

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Krishna Kant Tiwari Son of Late Devi Din Tiwari Resident of Village+P.O.-
Gosiya, P.S.- Manjhagarh, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna
2. The Chairman, Bihar Sanskrit Siksha Board, Patna
3. The Secretary, Bihar Sanskrit Siksha Board, Patna
4. The District Magistrate, West Champaran, Bettiah.
5. The District Education Officer, West Champaran, Bettiah.
6. The District Programme Officer (Establishment), West Champaran, Bettiah.
7. The Block Education Officer, Bettiah Block, West Champaran.
8. Managing Committee Sri Laxmi Kumar Sanskrit Primary Middle School, Lal
Bazar, District- Bettiah, West Champaran.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Pranav Kumar

For the Respondent/s : Mr. ASHOK KUMAR CHOUDHARY, AAG-13

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 11-09-2018

The present writ petition has been filed for quashing letter
no. 3665 dated 23.11.2015, whereby the District Programme Officer
(Establishment), West Champaran, Bettiah has stopped the payment
of salary of the petitioner.

The brief facts of the case are that pursuant to advertisement
and proper selection procedure, the petitioner was appointed by the
Managing Committee of Sri Laxmi Kunwar Sanskrit Primary-cum-
Middle School, Lal Bazar, Bettiah as Assistant Teacher vide
appointment letter dated 06.07.2010 and subsequently the



appointment of the petitioner was approved by the Secretary, Bihar Sanskrit Shiksha Board vide Memo dated 14.02.2012. One Animesh Kumar Chaubey is said to have filed a complaint belatedly on 24.03.2015 before the District Education Officer, West Champaran, Bettiah alleging therein that the date of birth of the petitioner herein was doubtful. The District Education Officer had then directed the Block Education Officer, Bettiah to conduct an enquiry whereafter the show cause notice was given to the petitioner and the petitioner had replied to the same stating therein that the petitioner was appointed on the basis of his eligibility as per the Madhyama/Matriculation marks as also after following the due procedure. Nonetheless, the District Programme Officer (Establishment) by the impugned letter dated 23.11.2015 directed the Board to stop the payment of salary to the petitioner herein and take action against the petitioner herein.

The learned counsel for the petitioner has submitted that as per the advertisement the eligibility criteria for appointment on the post of Assistant Teacher was Madhyama/Matriculation & *Up-Shastri* and the petitioner has passed his Madhyama examination securing 86.1 % marks, hence he was selected after following the due procedure on merits. It is further submitted that in case any irregularity or fraud was detected by the respondent, the matter should have been referred to the School Managing Committee and the salary



of the petitioner could not have been stopped without taking any action against the petitioner herein.

Per contra, the learned counsel appearing for the respondent nos. 5,6 & 7 has submitted that the petitioner has obtained matric pass certificate from two institutions and one of them depicts his date of birth as 02.06.1972 while the other mentions the date of birth of the petitioner as 18.06.1968. However, upon verification it has been found that both the certificates are genuine. Hence, on this ground the Managing Committee/the School in question had been directed to take action against the petitioner herein and stop his salary.

The learned senior counsel appearing for the petitioner has submitted that he is ready to concede before this Court to the extent that the date of birth of the petitioner be considered as 18.06.1968. It is further submitted that the salary of the petitioner could not have been stopped without either initiating any proceedings for misconduct or imposing penalty upon holding a disciplinary enquiry. Thus the submission of the learned senior counsel for the petitioner is that the respondents be directed to pay the salary immediately.

I have heard the learned counsel for the parties and I find that the salary of the petitioner could not be withheld till imposition of any penalty by the Managing Committee of the School, after holding a proper disciplinary enquiry.



In such view of the matter, the respondents are directed to pay salary to the petitioner for the period he has worked.

It is needless to state that this Court has not expressed any opinion upon the rights of the respondents to conduct disciplinary proceedings or impose penalty upon the petitioner herein.

The pending interlocutory applications, having not been pressed, are dismissed.

The writ petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.10.2018
Transmission Date	

