

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2652 of 2018

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1. Bihar Rajya Prarambhik Shikshak Sangh, District Unit- Kishanganj through its President Raghibur Rahman, S/o Motiur Rahman, Resident of Birnia, P.S.- Bahadurganj, District- Kishanganj Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Bihar, Patna
2. The Director, Primary Education, Education Department, Bihar, Patna
3. The District Magistrate, Kishanganj.
4. The District Education Officer, Kishanganj
5. The District Programme Officer (Establishment), Kishanganj
.... Respondents

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Appearance :

For the Petitioner : Mr. Mukesh Kumar Jha, Adv.

For the Respondents : Mr. Mukesh Kumar Jha, AC to AAG XV

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

2 16-02-2018 Heard the learned counsel for the petitioner and the learned counsel appearing for the State.

The grievance of the petitioner, Bihar Rajya Prarambhik Shikshak Sangh, District Unit- Kishanganj, is with regard to non-payment of salary from the materials available on record. It appears that the respondents are taking plea of non-availability of fund for payment of salary.

The State and its authority cannot take the plea that they have paucity of fund for payment of salary to the teachers. A welfare State is not expected to exploit the employee and after taking work deny payment of salary, if the block teachers working in the district of Kishanganj are regularly discharging their duties,



they are entitled to payment of their salary. The petitioner has stated in the writ application that similarly circumstanced Panchayat teachers and other regular teachers are regularly getting salary, but, a different stand was adopted by the respondents in the matter of block teachers.

If the allegation of the petitioner is true, then, it is violative of Article 14 of the Constitution of India as the State cannot be allowed to adopt two different yard stick in the matter of payment of salary to its employee. They cannot deny payment on the ground of non-availability of fund. In any event in the present writ application the respondents are required to examine the record to ascertain whether the teachers are validly appointed and regularly working and even after discharging the duty they are not getting their salary.

In stead of keeping the matter pending the writ application is **disposed of** with a direction to the respondent, Director, Primary Education, Bihar, Patna, to see that the block teachers in the district of Kishanganj are paid their arrears as well as current salary within a maximum period of three months, from the date of receipt/production of a copy of this order, along with a copy of the order of this Court, failing which the arrear will carry interest at the rate of 9% per annum from the date of decision of



the Director, Primary Education, Bihar, Patna, till the date of actual payment and all concerned instrumental in delay in making payment is liable to pay the interest from his/their own pocket. The Director, Primary Education, Bihar, Patna, is required to fix accountability on the erring official(s) in the matter of delay in making payment and realize the interest from his/their pocket within the time frame of three months.

(Anil Kumar Upadhyay, J)

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