

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13754 of 2017

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Sudha Kumari, Wife of Sanjeet Kumar Patel, Resident of Arar More, Gopalganj,
P.S.- Gopalganj, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Department of Human Resource Development, Govt. of Bihar, Patna.
3. District Magistrate, Gopalganj.
4. District Education Officer, Gopalganj.
5. District Superintendent of Education, Gopalganj.
6. District Programme Officer (Establishment), Gopalganj.
7. Block Education Officer, Manjha, District- Gopalganj.
8. Mukhiya, Gram Panchayat Raj Nimuian, Manja, District- Gopalganj.
9. Panchayat Secretary, Gram Panchayat Raj Nimuian, Manja, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Singh, Advocate

For the Respondent/s : Smt. Shilpa Singh, GA-12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 01-05-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. The petitioner has filed the present application for a direction to the respondents for quashing of the order contained in Memo No. 290 dated 07-6-2016, whereby a blanket order was issued by the District Programme Officer (Establishment), Gopalganj not to mark attendance. The attendance of the Panchayat Teachers, who were appointed pursuant to the order passed by this Court or by the District Teachers Employment Appellate Authority. Such order



appears to be arbitrary and cannot sustain. Counsel admits that during the pendency of the writ application, the petitioner was allowed to join, but denied salary. Learned counsel for the petitioner submits that the respondents cannot act arbitrarily in the matter of payment of salary. He submits that the respondents cannot take advantage of their own wrong in restraining the petitioner from marking attendance and denying salary.

3. In view of the above, the respondent no.6 is hereby directed to ensure payment of salary of the petitioner, arrears and current within a maximum period of 60 days from the date of receipt/production of a copy of this order.

4. It is made clear that the respondents cannot deny salary to the petitioner on the ground that the petitioner was restrained from marking attendance and, therefore, the period should be treated as no work, no pay.

5. It is now well settled that the respondents cannot restrain the petitioner and take the plea that since the petitioner was restrained, therefore, the petitioner was not allowed to claim salary. The respondents have to gracefully restore the benefit of payment of salary for the entire period, the petitioner was restrained from making attendance by the respondents arbitrarily.

6. While calculating the entitlement of the petitioner,



respondents are also required to workout the arrears for the period before petitioner was restrained from marking attendance and entire arrears and current salary has to be paid to the petitioner within maximum period of 60 days from the date of such decision.

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

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2018
Transmission Date	

