

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16309 of 2016

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1. Shreematee Asha Daughter of Sri Ramadhar Chaubey, wife of Sri Dhruwdeo Tiwari resident of village - Hansapir, P.O. - Masharak, P.S. - Masharak, District Saran at Chapra Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Primary Education, Department of Education, Government of Bihar, Patna.
3. The Collector cum District Magistrate, Saran at Chapra.
4. The District Education Officer, Saran at Chapra.
5. The District Programme Officer (Establishment), Saran at Chapra.
6. The Block Education Officer, Panapur, District Saran at Chapra.
7. The Head Master, Government Middle School Rasauli, P.S. - Panapur, Anchal - Panapur, District - Saran, Chapra Respondents

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Appearance :

For the Petitioner/s : Mr. Jeetendra Narayan
For the Respondent/s : Mr. Ashutosh Ranjan Pandey- Aag15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 06-02-2018 Heard the learned counsel for the petitioner and the learned counsel appearing for the State.

Despite two advance copies of the writ application served in the office of the Advocate General on 23.09.2016 for facilitating to file the counter affidavit, no counter affidavit has been filed. This is the very sorry state of affairs in the management of the litigation in the State of Bihar.

The grievance of the petitioner in the present writ application is stoppage of salary from January, 2016. The learned counsel for the petitioner submits that the petitioner is regularly working and till the date there is no adverse order.



Under the aforesaid circumstances, non-payment of salary after taking works, amounts to begari, which is prohibited under the constitutional scheme contained in Article 23 of the Constitution of India.

In the absence of counter affidavit, the Court is unable to decide the factual controversy involved in the present writ application. However, the reluctance of the respondents in not filing the counter affidavit renders the Court in a helpless position and, as such, this writ application is **disposed of** with a direction to the respondents to take final decision with regard to claim of the petitioner that at the time when the petitioner was appointed, the degree in question was valid in view of the circular of the State Government and decision of the Division Bench. The respondent-District Programme Officer (Establishment), Saran at Chapra, is required to take final decision in the matter of petitioner for payment of salary as respondent cannot be allowed to take work and deny payment. The petitioner is also granted liberty to bring to the notice of the District Programme Officer (Establishment), Saran at Chapra, all the relevant documents on which the petitioner places reliance in support of his case.

In case petitioner files fresh representation, along with a copy of this order, respondent-District Programme Officer



(Establishment), Saran at Chapra, is required to take final decision and ensure payment of salary for the period the petitioner has worked and there is no restraint order on working of the petitioner. Such an exercise must be completed within a maximum period of sixty days, from the date of receipt/production of a copy of this order.

(Anil Kumar Upadhyay, J)

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