

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13720 of 2014

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1. Krishna Mohan Mishra, S/o Satyanarayan Mishra, resident of Village- Lat Basepura, P.S.- Musrigharari, Distt.- Samastipur, presently working as Headmaster in Khudneshwar Rajniti Sanskrit Prathmic Sah Madhya Vidyalaya, Morwa Samastipur.
 2. Ranju Kumari, Assistant Teacher, D/o Late Yamuna Prasad Thakur, R/o Village Ratanpur, Distt. Darbhanga.
 3. Sanjeev Kumar Pathak, Assistant teacher, S/o Sri Satyanarayan Pathak, R/o Village Lagunia Raghu Kanth, P.S. & Distt.- Samastipur.
 4. Subash Chandra Jha, Assistant teacher S/o Sri Kameshwar Jha, R/o Village Morwadih, P.O.- Morwa, P.S.- Mushrigharari, Distt. Samastipur.
 5. Shatrughna Prasad, Assistant teacher, S/o Sri Ramdeo Prasad, R/o Village-Goshaighat Gali, Guljarbagh, Distt.- Patna.
 6. Sanjay Kumar Jha, Peon, S/o Late Bhairav Jha, R/o Village- Morwadih, P.O.- Morwa, P.S- Mushrigharari, Distt.- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through its Secretary, Human Resources Development Department, Bihar, Patna.
2. Baliram Prasad, the retired Special Director, Secondary Education, Vikash Bhavan, Patna.
3. The Chairman, Sanskrit Shiksha Board, Patna.
4. The Secretary, Sanskrit Shiksha Board, Patna.
5. Satish Chandra Jha, Village- Morwa, P.S. Musrigharari, Distt.- Samastipur, claiming to be In Charge Headmaster.
6. Girindra Mohan Mishra, Headmaster, Gandhi Sanskrit Vidyalaya Kamla, Samastipur, Claiming to be Secretary, Managing Committee of the School.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Singh, Advocate
For the Respondent/s : Mr. Avinash Shekhar, AC to SC-6
For the Board : Mr. S. S. Sundram, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 12-07-2018

Yesterday the case was heard at length. Mr. S.S.

Sundram, learned counsel appearing on behalf of Sanskrit Shiksha

Board (hereinafter referred to as 'the Board') admitted before this

Court that the petitioners were not made party before the Appellate



Authority and adverse order was passed against these petitioners.

2. The petitioners in the present writ application are aggrieved by the decision of the Appellate Authority, namely, Special Director, Secondary Education, Education Department, who was exercising as Appellate Authority power, has set aside the decision of the Board, whereby the Board approved the services of the petitioner.

3. Learned counsel for the petitioners submits that the petitioners are regularly working , as their services were approved by the Board and in appeal the decision of the Board was set aside the Special Director, Secondary Education, however, in the appeal they were not made party and the were not heard.

4. In view of the fact that the petitioners were not made party before the Appellate Authority and the order passed in favour of the petitioners was set aside, the Court has no hesitation in holding that the order passed by the Special Director, Secondary Education, Education Department, in Appeal No. 53 of 2013 dated 06.05.2014 to be a nullity in the eye of law.

5. Accordingly, the order passed by the Appellate Authority (Annexure-6) is quashed. The matter is remitted back to the Special Director, Secondary Education, Education Department to decide the appeal afresh in accordance with law after hearing these petitioners and the respondent no.5 herein within a period of four



months from the date of receipt/production of a copy of this order. If, it is found that the petitioners are regularly working in the School after approval of the Board, then the respondent authorities are required to make payment of salary for the period, the petitioners have actually worked after approval of the Board, as the order passed by the Special Director, Secondary Education, Education Department in the peculiar facts and circumstances has been declared as nullity by this Court.

6. It goes without saying that the issue with regard to payment of salary after remand would abide by the final outcome of the appeal.

7. With the aforesaid, the writ application stands allowed.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2018
Transmission Date	

