

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8450 of 2012

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1. Sanjay Kumar Pandey S/O Shri Chandrabhushan Panday R/O Village- Ganga Kanhauli, P.S.- Jalalpur, District- Saran
 2. Sanjiv Kumar Singh S/O Late Radha Mohan Singh R/O Village- Sagadi, P.S.- Jalalpur, District- Saran

... .. Petitioner/s

Versus

1. The Union Of India Through The Education Secretary M/O Hrd, Government Of India, Shastribhawan, New Delhi
2. The Regional Director Eastern Region Committee (NCTE), 15, Neelkanth Nagar, Nayapalli, Bhubneshwar-751012 (ORISSA)
3. The State Of Bihar Through The Principal Secretary Education Department, Government Of Bihar, Patna
4. The Director, Primary Education Department, Government Of Bihar, Patna
5. The District Magistrate, Saran, Chapra
6. The District Education Officer (ESTABLISHMENT) / Zila Shiksha Padadhikari (AASHAPANA), Saran, Chapra
7. The District Programme Officer (ESTABLISHMENT) / Zila Karyakaram Padadhikari (AASHAPANA), Saran, Chapra

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate
For the Respondent/s : Mr. Vivek Anand, AC to SC 28

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 11-10-2018

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

2. The petitioners are aggrieved by the order contained in memo no. 862 dated 12.3.2012, Annexure-8 whereby the District Programme Officer (Establishment), Saran has withdrawn Annexure-7, the order dated 12.1.2012 and directed stoppage of payment of scale of trained teacher to the petitioners and also directed for recovery of the amount already received by the petitioners as trained teacher.



3. The petitioners were initially appointed as Shiksha Mitra and subsequently by virtue of Rule 20 became Panchayat Shikshak. The Government took policy decision to provide in-service training to the untrained teachers. Since large number of teachers were recruited, decision was taken to ensure training to untrained teachers through IGNOU. The petitioners have undergone DPE programme of IGNOU in collaboration of NCERT and after obtaining the aforesaid diploma they were paid trained scale. Subsequently, the respondents have decided to withdraw the trained scale which was being paid to the petitioners holding that the DPE through IGNOU is inappropriate for grant of trained scale and thereafter they took decision to recover the amount paid to the petitioners as trained teachers by the impugned order dated 12.3.2012.

4. Learned counsel for the petitioners submits that there is no fraud or misrepresentation on the part of the petitioners and as such direction of recovery by the respondent-District Programme Officer (Establishment), Saran is without jurisdiction and demonstrative of illegal and arbitrary action on the part of the respondents.

5. There is no dispute that the petitioners were sent for in-service training by the respondents. The petitioners have not



chosen the agency for undergoing training at their own rather they were sent for such training by the respondents and after undergoing such training the respondents themselves decided to grant trained scale and as such it is not appeal to reason how they can take advantage of their own wrong in sending the petitioners to undergo training programme which is not appropriate, they cannot be allowed to now withdraw the trained scale holding that the training programme which the petitioners have undergone is incompetent and inappropriate. In view of the above, the respondents are not justified in directing recovery of the amount already paid to the petitioners after training.

6. Considering the totality of the facts and circumstances discussed above, the Court does not find any justification in the action of the respondents in passing the order contained in Annexure-8 dated 12.3.2012. It is accordingly, quashed. The respondents have to restore the benefit of trained scale which the petitioners have got after undergoing training at the instance of the respondents as the respondents themselves have decided the agency for training and for which the petitioners cannot be faulted. Consequent upon quashing the impugned order dated 12.3.2012, Annexure-8, there shall be no recovery of the amount already paid to the petitioners. Accordingly, the



respondents are directed to take fresh decision restoring the benefit of trained scale and recovery within a period of four months from the date of receipt/production of a copy of this order.

7. With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.10.2018
Transmission Date	

