

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24182 of 2013

Subhash Prasad S/O Late Hari Singh R/O Village Mohanpur, P.O- Beswak,
P.S- Islampur, Distt- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Secondary Education, Budhmarg, Patna.
3. The Regional Deputy Director, Patna Division, Patna.
4. The Collector, Nalanda.
5. The District Education Officer, Nalanda.
6. Managing Committee Gramin High School Beswak Through Its Chairman,
P.O- Beswak, Distt- Nalanda.
7. The Secretary, Gramin High School Beswak, P.O- Beswak, Distt- Nalanda
8. Sri Bindeshwar Prasad, Assistant Teacher, Gramin High School Beswak,
Beswak, Distt- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gopal Sharan, Advocate
For the Respondent/s : Mr. Sanjay Prasad, AC to AAG4

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 20-11-2018 This writ petition was filed on 03.12.2013. After five long years when the case was listed, prayer was made for adjournment of the case for one week. Again when the case was listed on 24.9. 2018 adjournment was sought for filing petition for amendment. On 10.10.2018 once again prayer was made for adjournment of the case for two weeks after Durga Puja Holidays.

From the aforesaid, it is clear that the petitioner after filing of the writ petition in 2013 has only sought adjournment and no effort was made for adjudication of the case on merit.

Under the aforesaid circumstances, as no one



appearing on behalf of the petitioner, the case was listed under the heading for 'dismissal' to provide one more opportunity to the counsel for the petitioner to assist the court. Unfortunately, today no one appears on behalf of the petitioner.

Under the aforesaid circumstances, the Court is constrained to dispose of the writ petition particularly in view of the fact that respondents have also not bothered to file any counter affidavit.

Petitioner has filed the present writ application for a direction to the respondents to recognize him as founder Headmaster. At the time of filing of the writ petition he was 60 years old and as such he has attained the age of superannuation.

From the pleading, it appears that petitioner's service was extended by the Managing Committee, the Court does not find any sanction of law for extension of age of superannuation by the Managing Committee. Such kind of prayer made in the instant case cannot be adjudicated. Primarily the authorities of the Education Department are competent to take appropriate decision with regard to recognition of the service of the petitioner as founder Headmaster.

Since the respondents have also not filed any counter affidavit and as such the Court is unable to adjudicate the



controversy and decide that the petitioner was founder Headmaster and entitled to the benefit. So far as extension of service from the age of superannuation is concerned, law does not permit the Managing Committee and as such prayer to that extent is misconceived.

Accordingly, the writ petition is disposed of with liberty to the petitioner in case the grievance of the petitioner has not been finally decided so far as the founder Headmaster is concerned, he may approach the competent authority of the Education Department who shall examine the same and pass appropriate order in accordance with law, preferably within a period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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