

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15826 of 2014

Subi Parween D/o Md. Shamim Ansari Resident of Village - Dacaita, P.O.
AND P.S. - Mirganj, District - Purnea, Panchayat Shikshak, Presently posted
AND working at Primary School, Tilangi, Gram Panchayat Raj - Pirmokam,
Block - Falka, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Human Resources Department, Govt. of Bihar, Patna.
2. The Zila - Shikshak - Niyojan Appeleya Pradhikar, Katihar, Mirchaibari, District - Katihar.
3. The District Magistrate-cum-Collector, Katihar.
4. The District Superintendent of Education, Katihar, Mirchaibari, S.D.O., Campus, District - Katihar.
5. The District Program Officer (Establishment), Katihar, Dt - Katihar.
6. The Block Education Extension Officer, Falka Block, Falka, Dt - Katihar.
7. Mukhiya, Gram Panchayat Raj - Pirmokam, Falka Block, Dt. Katihar.
8. Panchayat Sachiva, Gram Panchayat Raj - Pirmokam, At & P.O. Falka.
9. The Headmaster, Primary School, Tilangi, Gram Panchayat Raj - Pirmokam, Block - Falka, District - Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anshuman Jaipuriyar
For the Respondent/s : Mr. Gp20- Nadeem Seraj

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

- 4 03-08-2018 1. Heard learned counsel for the petitioner and counsel appearing on behalf of the State.
2. Earlier the writ petition was filed by the petitioner for issuing direction to the respondent to pay salary to the petitioner. On behalf of the State stand has been taken that the petitioner was paid salary upto December, 2013. Stand was also taken in the counter affidavit filed by the respondents that the petitioner is not working in the



school after December 2013. This fact has been disputed by the petitioner.

3. Considering the fact that on the date of filing of the writ petition the claim was for payment of salary and it is admitted by the petitioner that the petitioner was paid salary upto December 2013.
4. In view of the above the Court does not feel persuaded to enter into the other issues which are not directly concerned. However, the Court would like to clarify that if the petitioner is regularly working then it shall be obligation of the respondents to make payment of salary as taking work and denying salary is impermissible and violative of Article 23 of the Constitution.
5. So far as controversy that on the date of submitting of application, petitioner was short of one day as petitioner has not completed 18 years of age, is concerned at this stage it has lost its significant. In view of the judgment of Apex Court in case of Ram Swaroop Vs. State of Harayana (AIR) 1978 SC (1536) and the judgment of Apex Court reported in AIR 1990 page 1389 the respondents now cannot raise the issue of shortage of one day at the time of submission of application for



appointment as respondents have appointed the petitioner with open eye and the petitioner has worked for considerable long time.

6. With the aforesaid, the writ petition stands disposed of.
7. It is needless to say that the respondent cannot deny the petitioner to work in the capacity as Panchayat Sikshak as the appointment of petitioner has not been dispensed with as yet.

(Anil Kumar Upadhyay, J)

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