IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7723 of 2018

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Ram Binay Tiwary, Son of Late Sukhdeo Tiwary, resident of Village- Paroo Mathiya, P.O. Paroo, P.S. Paroo, District- Muzaffarpur, the retired Panchayat Secretary, Gram Panchayat Raj, Belahi Lachhi, Block- Minapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur, District- Muzaffarpur.
5. The Block Development Officer, Minapur, District- Muzaffarpur.
6. The District Provident Fund Officer, Muzaffarpur, District- Muzaffarpur.
7. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 31-10-2018

Heard learned counsel for the petitioner; State and Accountant General.

2. In terms of the materials on record, the Court is satisfied that the admissible dues have been paid.

3. In view of the aforesaid, learned counsel for the petitioner submitted that he may be permitted to withdraw the writ petition with liberty to challenge the decision of withholding 40% of the pensionary benefits.

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4. Having regard to the aforesaid, the writ petition stands disposed off with liberty aforesaid.

5. Before parting, the Court is constrained to take judicial note of the averments made in the 3rd supplementary counter affidavit filed on behalf of respondent no. 5. At paragraph no. 4 of the same, the following statement has been made which is reproduced hereinunder:

> *"4. That it is humbly submitted that in compliance of the earlier order dated 24.09.2018 passed by this Hon'ble Court for making payment of the remaining 10% of the dues as per the pre revised scale which has to be paid to the petitioner in his account and the same statement of account of Bank dated 26.09.2018 in which was credited in his account. Now nothing remain & dues against the respondent no. 5. Now any further payment with regard to the petitioner which will be decided and revised by the accountant General of Bihar through the Treasury."*

6. Upon a query to learned counsel for the State as to where was the direction in the order dated 24.09.2018, for making payment of the remaining 10% of the dues as per the pre-revised scale to the petitioner, she was not in a position to show the same.

7. Perusal of the order dated 24.09.2018 discloses that the submission of learned counsel for the State that they had completed the formalities with regard to payment of remaining 10% of the dues, as per the pre-revised scale has been noted in the order

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of the Court. However, the final direction was at paragraph no. 3 for filing further affidavit showing necessary orders and payment consequent to the petitioner being granted the benefit of the 7^{th} Pay Revision.

8. The aforesaid clearly discloses utter casualness of the respondent no. 5, in filing the affidavit as he has put words in the order which do not exist by stating with regard to a direction of the Court in its order dated 24.09.2018, which is not present in the order.

9. The Court cannot accept such conduct where its order is misrepresented by any authority.

10. Accordingly, the Court deems it appropriate to impose personal cost of Rs. 5,000/- on the respondent no. 5, who has affirmed the affidavit on 04.10.2018 under oath No. 16377. The same shall be deposited in the Juvenile Justice Fund of the State Social Welfare Department within three weeks from today and receipt filed within the next one week. If the same is not done, the Registry shall put up the matter before the Bench for necessary order.

(Ahsanuddin Amanullah, J)

P. Kumar

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