

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.89 of 2016

In

Civil Writ Jurisdiction Case No. 4862 of 2011

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Anil Singh Son of Bateshwar Prasad Singh, Resident of Villae - Nand Lal Patti, P.O. - Sultanpur, P.S. - Amarpur, District - Banka, at present working as Assistant Teacher, Project Girls High School Chandan Banka.

.... Petitioner/s

Versus

1. The State of Bihar
2. Mr. R.K. Mahajan, the then Principal Secretary, Human Resources Development Department, Bihar, Patna.
3. Mr. Lalan Jee, the then Director Secondary Education, Bihar, Patna.
4. Mr. Arun Kr. Sharma, the then Deputy Director, Secondary Education, Bihar, Patna.
5. Sri Dhurendra Sharma, the then Regional Deputy Director (Education) Bhagalpur District - Bhagalpur.
6. Sri Abhay Kumar, the District Education Officer, Banka.
7. Sri Anop Kr. Sinha, the Chairman of three man committee Human Resources Development Department, new Secretariat, Patna at present posted as Secretary.

.... Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Indeshwari Prasad Mandal
For the Opp. Party/s : Mr. Sc23 Kumar Priyaranjan

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

9 06-08-2018

By an order dated 20.9.2013 passed in CWJC

No.4862 of 2011, disobedience whereof has been alleged, the following directions were issued:-

“7. I accordingly, allow this writ petition and direct the Director, Secondary Education, Government of Bihar in the Department of Education to take a decision within three months from the date of production of a copy of this order before him as to how this



school has to be funded and ensure that adequate funds are made available for the teaching and non-teaching staff of the school concerned.

The learned counsel for the Opposite Parties, referring to the show cause reply filed on 9.7.2018 has stated that the opposite parties have taken the following stand:-

“4. That it is humbly submitted that for the purposes of claim of the petitioner for the payment of salary treating him the Assistant Teacher of the school in question i.e. Project Girl's High School, Chandan, Banka, the records of the School in question were called for by the District Education Officer, Banka vide department's letter no. 106P, dated 04.07.2018.

5. That the District Programme Officer (establishment) Banka and the Acting Headmistress of the School in question appeared in the office of the undersigned and submitted a report regarding the working teaching and non-teaching staffs along with teacher's attendance register from 1987 to till date.

6. That it is humbly submitted that the District Programme Officer (Establishment) Banka vide letter no. 1706, dated 06.07.2018 enclosing the report of acting headmistress of the School in question has reported that in respect of appointment and working of the petitioner Sri Anil Singh, Proofs and records are not available.



7. That it is humbly submitted that in presence of the District Programme Officer (Establishment) Banka and the Acting Headmistress of the School in question, the attendance register from 1987 to till date were examined. After going through the attendance register, it revealed that the name of the petitioner was not amongst the working teachers of the School in question. However it is further relevant to submit here that the strength of the school is 01+08 means the post of principal along with eight assistant teacher as per the Manak Mandal is sanctioned and at present the school is functioning with full strength of 09 teachers and as such there is no post is also available in the school in question. The deponent further humbly submits that from the records of the Directorate of Secondary Education the school in question was/is directly run by the Government not by the managing committee. It also revealed that the teaching and non-teaching staff, who were working have been allowed the payment of salary and for whom necessary funds were made available regularly. From the report and on the cost of repetition of the fact that presently in the school in question nine (09) teachers, one (01) clerk and two (02) peons are working and they have been paid their salary regularly. For the kind perusal of this Hon'ble Court, the list of working teaching and



non-teaching staffs from the year 1987 to till date is enclosed herewith, in which the name of the petitioner was not reported amongst the working teachers.

A true photo-copy of the letter of District Education Officer, Banka District/ Programme Officer (establishment), Banka vide letter Nos. 1086, dated 22.06.2018 and 1706, dated 06.07.2018 along with annexure are annexed herewith and marked as Annexure-R/1 and R/2 to this show cause.

8. That is humbly submitted that the order of this Hon'ble Court in respect of ensuring adequate fund for the teaching and non-teaching staffs of the School in question have been complied with and the teaching and non-teaching staffs, who were/ are working and performed the duties have been paid their salary. Since the petitioner was not working and had never worked in the School in question and he was not on the roll of the School in question, he has not been paid salary.

10. That in respect of the claim of the petitioner, it is further humbly submitted that from the available records, it appears that the petitioner had claimed that he was working in the School in question since 10.04.1987 and his qualification is B.A. (untrained). But from original records of the school, it is evident that



the petitioner had never been on the roll of the School in question. On the other hand, as per the law laid down by the full bench of this Hon'ble Court as well as by the Apex Court in civil Appeal nos. 6626-6675/2001, the petitioner does't possess the teacher' training degree, is also not entitled for the approval of services and payment of salary."

A bare perusal of the show cause reply filed by the opposite parties would show that the necessary funds are being made available to the concerned school and as far as the petitioner is concerned, a dispute has been raised regarding him having not worked in the said school.

In view of the aforesaid, no contempt is made out, however, the petitioner, if so advised, is at liberty to raise his grievances against the said dispute before the appropriate court.

The present petition is disposed of.

(Mohit Kumar Shah, J)

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