

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8084 of 2018

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1. Ashok Kumar Singh Son of late Surya Singh, Resident of Village-Mahachchi, P.S.-Majhoulia, District-West Champaran.
2. Rajesh Kumar Jha, Son of Gajadhar Jha, Resident of Village-Jabdol, P.S. Chanpatia, District West Champaran.
3. Madhav rai Sharma, Son of late Jagannath Rai, Resident of Village-Jabdol, P.S. Chanpatia, District West Champaran.
4. Sheela Kumari @ Shila Kumari, Wife of Shri Awadhesh Rai, Resident of Village-Rarhiya, P.S. Gobindganj, District-East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, New Secretariat, Patna.
2. The Regional Deputy Director of Education, Tirhut District, Muzaffarpur,
3. District Education Officer, West Champaran at Bettiah, District-West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pratap Sharma

For the Respondent/s : Mr. M.P. Yadav- Gp23

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 27-06-2018

After some arguments, the learned counsel for the petitioners seek to withdraw the present petition in order to pursue the wholesome remedy before the trial court in view of the following noteworthy facts of the present case :-

1) The petitioners had earlier moved this Court in CWJC no. 648 of 1998 and this Hon'ble Court vide order dated 05.08.2011 had given liberty to the petitioners to withdraw the writ petition and avail an alternative remedy of getting a declaration from the Civil Court that the appointment letters of the petitioners are



genuine, valid and operative in law.

2) The petitioners had then approached the learned Civil Court and the learned court of Munsif, Bettiah at West Champaran by judgment dated 28.02.2017 allowed the suit and held that the appointment letters of the petitioners dated 21.06.1990 are valid, hence the order of termination is not valid.

3) The petitioners had then moved this Court for payment of salary and this Court had remanded the matter to the appropriate authority for consideration of the case of the petitioners for payment of salary by an order dated 21.02.2018 passed in CWJC no. 1762 of 2018.

4) The appropriate authority had passed an order dated 31.03.2018 wherein the case of the petitioners for payment of salary has been rejected on the ground that the aforesaid judgment passed by the learned Court of Munsif, Bettiah, West Champaran in case no. 41 of 2012 has been assailed in Title Appeal no. 14 of 2018.



5) Apparently, no order has been produced by the respondents, whereby and whereunder the action of the aforesaid judgement dated 28.02.2017 has been stayed in Title Appeal no. 14 of 2018.

In view of the aforesaid, the appropriate remedy for the petitioners would be to file an Execution petition for execution of the aforesaid judgment dated 28.02.2017 specially since the matter pertaining to the validity of appointment letters of the petitioners has been adjudicated by the learned Court of Munsif, hence it would be expedient that the issue of payment of salary is also adjudicated by the said Court in Execution or in an appropriate proceeding. It is needless to state that in case, such an Execution petition is filed by the petitioners, the Executing court shall consider the fact that there is no stay in the Title Appeal and expeditiously pass necessary orders.

In view of the aforesaid, the present writ is disposed of as withdraw with liberty to the petitioner to file Execution petition or any other appropriate petition before the court of competent jurisdiction.

(Mohit Kumar Shah, J)

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