

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14828 of 2018

Prabhu Nath Chaurasia son of Late Ram Das Bhagat, resident of Village-
Gandhi Nagar, P.S. Mirza Chowki, District- Sahebganj Jharkhand.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Department of Education, Bihar, Patna.
3. The Director Administration-Cum- Addl. Secretary Department of Education Bihar, Patna.
4. The Regional Deputy Director of Education, Department of Education, Bhagalpur Division, Bhagalpur.
5. The District Education Officer, Department of Education, Banka.
6. The District Programme Officer Establishment, Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Subodh Prasad

For the Respondent/s : Mr.Subhash Chandra Mishra- Sc16

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 11-02-2019 The present writ petition has been filed for quashing of the order dated 04.04.2018 passed by the District Programme Officer (Establishment), Education Department, Banka whereby and whereunder the salary paid to the fake teachers totalling to a sum of Rs. 4,27,454/- along with 10% interest per annum has been sought to be recovered from the petitioner.

2. The learned counsel for the respondents has filed counter affidavit and has referred to paragraph no. 15 wherein it has been stated that the so called fake teachers have already deposited a sum of Rs. 2,09,500/- and a sum of Rs. 2,17, 954/- totalling to a sum of Rs. 4,27,454.

3. In reply, the learned counsel for the petitioner has



submitted that since the amount of salary paid to the fake teachers has already been deposited by the fake teachers, now, no recovery is required to be made from the petitioner and moreover, even on merits, the said order of recovery dated 04.04.2018 is illegal inasmuch as the same has been passed without conducting a proper departmental proceeding or even without giving show cause notice to the petitioner herein.

4. Having regard to the submissions made by the learned counsel for the parties, this Court is of the opinion that the order dated 04.04.2018 is wholly illegal and contrary to the provisions of law inasmuch as neither a regular departmental proceeding has been held nor a show cause has been issued to the petitioner prior to the passing of the said order by the District Programme Officer (Establishment), Education Department, Banka. Moreover, the amount sought to be recovered by the respondents has already been deposited by the fake teachers as has been admitted in the counter affidavit, hence, no cause of action survives in the present case, as far as the respondents are concerned.

5. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the order dated 04.04.2018 passed by the District Programme Officer



(Establishment), Banka is quashed. The writ petition is allowed.

(Mohit Kumar Shah, J)

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