

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13551 of 2017

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1. Mantu Kumar Upadhayay and Ors S/o Sri Mankeshwar Upadhayay, Resident of Vill- Gularia, P.O.- Dhudki Chpara, P.S.- Gpalpur, Dist- West Champaran.
 2. Abdul Rahman, S/o Sharif Gaddi, Resident of Village- Taktakwa, P.S.- Jogapatti, Dist- West Champaran.
 3. Sri Braj Kishore Yadav, S/o Late Jaipal Yadav, Resident of Village- Khora, P.S.- Chanpatia, Dist- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Collector-cum-District Magistrate, West Champaran at Bettiah.
4. The District Education Officer, West Champaran at Bettiah.
5. The District Programme Officer, Establishment, West Champaran at Bettiah.
6. The Block Education Officer, Lauriya Block, Lauriya, Dist- West Champaran.
7. The District Teachers Appellate Authority, West Champaran at Bettiah.
8. The Panchayat Secretary-cum-Member Secretary, Employment Unit, Gram Panchayat Raj Gonauli Dumara, B
9. The Panchayat Secretary-cum-Member Secretary, Employment Unit, Gram Panchayat Raj Bagahi Puraina, B
10. The Panchayat Secretary-cum-Member Secretary, Employment Unit, Gram Panchayat Raj Mathia, Block- La
11. The Block Education Officer, Jogapatti Block, Dist- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Respondent/s : Mr.Jitendra Kumar Ray - Sc13

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 10-07-2019 Heard learned counsel for the petitioners and the
counsel appearing on behalf of the State.

Petitioners have approached this Court for a direction
to the respondents to pay salary to the petitioners.



Petitioner no. 1 was appointed on 15.12.2013, petitioner no.2 was appointed on 11.5.2013 and petitioner no.3 was appointed on 14.1.2014.

The petitioners have approached the District Appellate Authority and the Appellate Authority vide order on 30.3.2017 issued direction to the respondents to pay salary. After order of the Appellate Authority the payment was denied.

The petitioners filed present writ application dated 13.9.2017 and vide order dated 22.2.2018 this Court granted indulgence to the respondents to file counter affidavit. Unfortunately, the respondents have chosen not to file counter affidavit.

Under the aforesaid circumstances, the Court is constrained to proceed on the basis of principle of non-traverse as laid down by the Apex Court in the case of Naseem Bano vs. State of U.P. and Ors: AIR 1993 SC 2592 which was also indicated in the order dated 22.2.2018.

Taking work denying payment amounts to Beggari which is impermissible.

Since the petitioners have been appointed in 15.12.2013, 11.5.2013 and 14.1.2014 respectively and they are regularly working and there is order of District Appellate



Authority dated 30.3.2017 in favour of the petitioners, the writ petition is disposed of with direction to the respondents to ensure payment of arrears and current salary to the petitioners within a maximum period of sixty days, failing which the respondent nos. 7, 9 and 10 shall not draw salary after sixty days.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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