

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2081 of 2018

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Vijay Kumar Choudhary S/o Sri Radhakant Choudhary, Assistant Teacher, At
Present Incharge Head Master Rajkiyekrit Mahatma

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department of Bihar, Patna.
3. The Director, secondary Education, Bihar, Patna.
4. Regional Education Deputy Director, Munger.
5. Director Education Officer, Begusarai.
6. District Programme Officer, Secondary Education, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar
		Mr. Ram Vinay Pd Singh
For the Respondent/s	:	Mr.M.Pd. Yadav- Gp23
		Mr. Rajesh Kr. Sinha

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 02-07-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the respondents.

Petitioner has filed the present writ application
challenging the order of punishment.

Learned counsel appearing on behalf of the
respondents submits that full dressed departmental proceeding
was not conducted in the instant case. However, he admits
stoppage of one increment which falls in the category of minor
punishment.

His main contention in this case is against the order



directing forfeiture of salary for the period the petitioner was put under suspension except subsistence allowances.

Mr. Arun Kumar, learned counsel appearing on behalf of the petitioner submits that respondents have not been issued any notice and without providing any opportunity of hearing decision was taken for forfeiting the salary except subsistence allowances for the period of suspension. He admits the legal position that for inflicting minor punishment full dressed departmental proceeding is not required.

Considering the aforesaid, the Court does not find any infirmity in the order inflicting punishment of stoppage of one increment.

So far as the order forfeiting salary except subsisting allowances is concerned, the Court finds substance in the submission of learned counsel for the petitioner that the said decision was taken without opportunity of hearing and without any notice.

Considering the aforesaid that part of the order dated 7.6.2017 Annexure-9 and 11 is quashed.

The matter is remitted back to the Director, Secondary Education to provide opportunity of hearing to the petitioner on the issue of forfeiting the salary except subsistence allowances



for the period of suspension and after providing opportunity of hearing to the petitioner the respondent director may take fresh appropriate decision in accordance with law at the earliest preferably within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is partly allowed to the extent indicated hereinabove.

(Anil Kumar Upadhyay, J)

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