

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14858 of 2018

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Jageshwar Mistri S/o Sri Ram Sarup Mistri, R/o Village- Radha Nagar P.S.
Sikandra, District- Jamui.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Magistrate, Jamui.
4. The District Superintendent of Education, Jamui.
5. The Block Education Extension Officer, Sikandra Jamui.
6. The Headmaster, Ucha Madhmymik Vidyalay, Dhanbay.
7. The Mukhiy, Mahadev Simaria Gram Panchayat, Mahadev Simaria,
Sikandra, Jamui.
8. The Panchayat Sachiv, Mahadev Simaria, Gram Panchayat Mahadev
Simaria, Sikandra, Jamui.
9. The Member District Teacher Appointment Appellate Tribunal Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Sinha, Advocate
		Mr. Jitendra Kumar Pandey, Advocate
For the Respondent/s	:	Mr.Jitendra Kumar Roy -1 Sc13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 11-07-2019 Earlier the petitioner had approached this Court twice by filing CWJC Nos. 20626 of 2013 and 2616 of 2014. Both the writ petitions were heard analogous and disposed of by common order dated 3.3.2014. The writ court after detailed discussion disposed of the writ petitions with a direction to the Committee headed by Pramukh Sikandara and Block Development Officer, Sikandara to take appropriate decision. The relevant part of the order contained in Annexure-1 is quoted



below for ready reference:-

“This Court, however, cannot approve the second part of the order of the Block Development Officer, wherein, a direction has been given for accepting the joining of the respondent no.11 on the vacancy created by the removal of the petitioner. Let it be noted that there was an earlier order of the Tribunal dated 14.8.2012 in Appeal Case No. 9/2012 filed by the wife of the petitioner namely Mandodari Devi for screening I.T.I. qualification of respondent no.11 and his service was terminated by Panchayat Mukhia and Panchayat Secretary on 11.1.2013 and the same was not interfered by this Court when he had filed C.W.J.C. No. 20232 of 2012 which was disposed of on 11.11.2013 nor set aside by the Tribunal in the impugned order passed by the Tribunal in Appeal Case No. 16 of 2013 filed by Respondent no. 11 against cancellation of his appointment. In that view of the matter the Block Development Officer ought to have not passed a consequential relief which was not given by the Tribunal.

Thus, this aspect of the matter is remitted back to the Committee headed by Pramukh Sikandara and Block Development Officer,



Sikandara to re-consider such decision with regard to reinstatement of the respondent no.11 in service. Let it be noted that the Block Development Officer is only the Member Secretary of the Committee and any decision with regard to reinstatement, which will have the effect of respondent no.11 having appointed back in service, can be taken only by the block level Employment Committee consisting of the Pramukh being the Chairman and four others as members and, therefore, any decision for the same has to be taken by that Committee.

At that stage, the Committee will take into account the earlier findings arrived at by the Tribunal in the order dated 14.8.2012 in Case No. 09/2012 wherein it has been held that the respondent no.11 in fact did not possess the requisite qualification and was a simple Matriculate and his ITI qualification did not fall within the prescribed qualification for the post of Panchayat Teacher/Prakhand Teacher and consequently the services of the Respondent no. 11 had also been terminated on 11.1.2013.

Till such a decision is taken by the aforesaid Committee, the operation of the order of the Block Development Officer dated 2.12.2013 only with regard to reinstatement of the respondent no.11 shall remain stayed.



With the aforementioned observations and direction, both of these writ applications are disposed of.”

Learned counsel appearing on behalf of the petitioner submits that the petitioner joined the school and started working as Panchayat Teacher pursuant to memo No. 210 dated 9.6.2015 passed by the Block Education Officer, Sikandra, Jamui but he has not been paid salary.

Considering the aforesaid, the writ petition is disposed of with a direction to the respondent-District Programme Officer (Establishment) (substituted from District Superintendent of Education), Jamui to consider the claim of the petitioner and if the petitioner is regularly working, there is no reason to deny salary. Necessary decision with regard to the claim of the petitioner for payment of salary must be taken by the respondents at the earliest preferably within a period of sixty days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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