

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.488 of 2018

Subhash Jha, Son of Late Indra Mohan Jha, Dariyanpur, P.S. Sajour, Sadar Bhagalpur, District Bhagalpur, Bihar State. Subhash Jha, Advocate, Table No. 3 Left Side near A.O.R. Office, Post Office-Patna High Court Campus Patna High Court, Patna. Pin Code-800028.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Bikas Bhawan, Sachivalaya, Bihar, Patna, Pin Code-800015.
3. The Joint Secretary, H.R.D., Bikas Bhawan, Sachivalaya, Bihar, Patna, Pin Code-800015
4. Primary Education Director, (Education Department) Human Resources Development Department, Bikas Bhawan Sachivalaya Bihar Patna Pin Code No.-800015
5. District Magistrate, Bhagalpur, District-Bhagalpur State Bihar Pin Code No.-801212.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Subhash Jha (In Person)
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-01-2019

Heard Shri Subhash Jha, in person.

2. The appellant had earlier filed C.W.J.C. No.14578 of 2015 in which the following orders was passed on 25.01.2016:

“This writ application is dismissed for non-joinder of the party respondents.”

3. The appellant filed the second writ petition being C.W.J.C. No.715 of 2016 that was dismissed vide order dated 13.01.2016 on account of defects by the following order:



“Three months’ time as prayed for, is granted to the petitioner to remove the defects pointed out by the stamp reporter, failing which the writ application shall stand dismissed without further reference to the Bench.”

4. It appears that the appellant was pursuing his claim before the Education Department for appointment as a Teacher and ultimately, an enquiry was conducted and the Headmaster of Adarsh Madhya Vidhyalay, Dariyapur, Shahpur, District-Bhagalpur, clearly indicated that no such person by the name of Subhash Jha has been appointed or has worked as a Teacher in the School. These facts are categorically stated in the counter affidavit filed on behalf of the respondent-Department by Shri Phool Babu Chouduary, District Education Officer, Bhagalpur.

5. The replies given to the said queries raised are unconvincing.

5. The learned single Judge on 15th March, 2018 by the impugned judgment passed in C.W.J.C. No.1922 of 2017 indicated that it did not express any opinion on the claim of the petitioner about his experience or eligibility for being appointed as a Teacher, but in the event any such claim is admissible, it will be open to the appellant to pursue the same and seek appointment or payment of salary.



6. We have scanned through the entire records and we find that even the observations made by the learned single Judge were absolutely unwarranted inasmuch as in the absence of any such existence of post or appointment or actual working in an institution, there is no occasion for issuance of a mandamus, the first principle whereof is the obligation of the State to be discharged in the event there is any right being claimed under any law for the time being in force. In the present case, there is nothing on the record to indicate the same.

7. We are, therefore, not inclined to accept any such request on behalf of the appellant without prejudice to the rights to approach the appropriate forum or the State Government or for redressal of any of his grievances. A judicial review in the background aforesaid being impermissible, the curtain has to be finally drawn. We accordingly do the same and consigned the appeal to records.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM/Saif

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

