

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17800 of 2018

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Arun Kumar, Son of Shri Rajendra Prasad, Resident of Village- Harpur, Post Office- Sidhwalia, P.S.- Mahmadpur, District- Gopalganj, At Present Posted and Working as a Prakhanda Teacher in Govt. Middle School Munja, Anchal-Baikunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Gopalganj.
3. The District Education Officer, Gopalganj.
4. The District Programme Officer (Establishment), Gopalganj.
5. The Block Development Officer Cum the Member Secretary, Block Teachers Employment Unit, Baikunthpur, District- Gopalganj
6. The Block Education Officer, Baikunthpur, District- Gopalganj.
7. The Headmaster, Govt. Middle School Munja, Block Baikunthpur, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra
For the Respondent/s : Mr. Amit Bhushan, AC to GP-17

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 11-07-2019 Heard learned counsel for the petitioner and the State.

2. The petitioner is aggrieved by non-payment of salary for the petitioner, the petitioner has worked.

3. Learned counsel for the petitioner submits that the petitioner has joined the school after order of the District Teachers Appellate Authority, but he has not been paid salary since 04.06.2016. He further submits that similar issue was decided by a Co-ordinate Bench of this Court in C.W.J.C. No. 417 of 2015 vide oral judgment dated 11.05.2017 (Annexure-7).



The relevant part of the judgment is quoted herein below:

3. Learned counsel for the petitioners submitted that the issue of their appointment as Panchayat Teachers was the subject matter of Appeal No. 15 of 2013, which was finally decided by order dated 17.07.2013, by the District Teachers Employment Appellate Authority, Darbhanga (hereinafter referred to as the 'Authority') and pursuant thereto, they were given appointment letter and have also joined and working since July, 2013. However, when payment was not being made to them, they represented before the District Education Officer, Darbhanga (respondent no.4) but instead of making payment, he has raised a controversy and has in fact, taken a stand that the order of the Authority dated 17.07.2013, has been passed on incorrect facts and thus, guidelines have been sought from the superior authorities. Learned counsel submitted that it is a blatant case where the District Officers, who are required to implement the order of the Authority, which is the creation of a statute and its orders have the force of law till not set aside by a superior Court or Authority, are creating obstacles. It was submitted that the order having become final and till date there being no challenge to the same, the officer, under the garb of there being incorrect facts mentioned in the order of the Authority and seeking guidance from the superior officers, are not entitled to or authorized in law to stop the salary of the



petitioners when admittedly they have a valid letter of appointment and after joining are also discharging their duty as Panchayat Teachers without any break.

4. Learned counsel for the State submitted that the respondent no. 4 had sought guidelines, as upon verification of the records, it transpires that the grounds and factual aspects recorded in the order of the Authority dated 17.07.2013 were not correct. It was submitted that in such background, guidelines have been sought. However, learned counsel was not in a position to defend the conduct of the State authorities in not making payment till the date there is a valid order of the Authority in their favour and in compliance thereof they have been appointed and after joining are still working.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the submissions of learned counsel for the petitioners. An order of the Authority, which is valid and enforceable in law, having been passed and the same not being interfered with or even under challenge before any superior Court or Authority, the consequences of such order shall follow. It is beyond the jurisdiction of any officer to resist such order or its consequences. Once, in terms of the said order, the petitioners have been appointed and they have joined in their respective schools and are also discharging their duties as Panchayat



Teachers, the law requires that they should be paid for work being performed by them.

6. Accordingly, the writ petition stands disposed off with a direction to the respondents no. 4 and 8 to ensure that up-to-date payment, including current salary is made to the petitioners within four weeks from the date of production of a copy of this order before them

4. Considering the oral judgment as contained in Annexure-7, the present writ application is also disposed of in the similar terms.

(Anil Kumar Upadhyay, J)

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