

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
Civil Writ Jurisdiction Case No.12491 of 2019**

Arjun Prasad S/o Baiju Rout @ Baijnath Rout R/o Village-Gangapur, P.S.-  
Hulasganj, District-Jehanabad

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary of Education Department,  
Govt. of Bihar, Patna
2. The Accountant General Bihar, Birchand Patel Path, Patna
3. The Senior Accounts Officer Bihar, Patna
4. The District Education Officer Nalanda
5. The District Programme Officer Nalanda
6. The Treasury Officer Hilsa, District-Nalanda
7. The Block Education Extension Officer Block-Islampur, District-Nalanda
8. The Head Master of G.M.K. High School Islampur, District-Nalanda

... .. Respondents

**Appearance :**

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| For the Petitioner/s        | : | Mr.                              |
| For the State               | : | Mr.Amit Bhushan, AC toGP17       |
| for the Accountant General: | : | Mr. Ram Kinkar Choubey, Advocate |

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD  
ORAL ORDER**

6      31-08-2020                      In this case on 25.08.2020, this Court passed the  
following order:-

“Mr. Amit Bhushan, learned AC to GP-17 has informed this Court that payment of Rs.1,35,342/- which was sanctioned on account of earned leave to the petitioner has already been paid in the month of September 2019. In the writ application, the petitioner who is a retired peon from GMK High School, Islampur, Nalanda on 31.08.2011 has claimed two reliefs. He claims that his leave encashment amount for 242 days has not been paid and secondly that he has not been provided the benefit of 3<sup>rd</sup> MACP even though he retired from service after 37 years.

In the counter affidavit filed on behalf of respondent no. 5 a specific stand has been taken that at the time of retirement of the petitioner leave encashment was not allowed to the employees of the minority institutions and, therefore, the payment of the said amount was not made to him but later on the State Cabinet in its meeting held on 24.07.2018 granted sanction to provide leave encashment benefit to the



employees of the non-Government Aided (including minority) institutions. By virtue of this decision as contained in resolution no. 1232 dated 25.09.2018 (Annexure 'A') to the counter affidavit the petitioner has been sanctioned Rs.1,35,342/-.

So far as the benefit of 3<sup>rd</sup> MACP is concerned, in paragraph '8' of the counter affidavit a specific stand has been taken that the same is not payable to the employees of non-Government Aided (including minority) institutions as they are not Government employees and Annexure '2' enclosed with the writ application is applicable only to the employees of State Government and, therefore, the said claim is not justified.

It appears that the counter affidavit filed on behalf of the respondent no. 5 has not been served on learned counsel for the petitioner. Learned counsel for the petitioner has not joined the proceeding.

In such circumstance, the Court is unable to pass final order in the writ application. It is unfortunate that the office of the law officer deputed by the State is not taking care of the essentialities required in the matter of filing of counter affidavit after serving of the same on learned counsel for the petitioner. The counter affidavit seems to have been sworn some time on 06.08.2019 and same has been filed in the registry without service on learned counsel for the petitioner even though *Vakalatanama* signed by the learned counsel for the petitioner contains complete address and mobile number of learned advocate.

For wasting the Court's time in this manner the Court was seriously thinking to impose some cost against the respondents but finding that it is a fault on the part of the lawyer and for that the respondent should not suffer this Court is restraining itself from imposing cost. Mr. Amit Bhushan shall ensure that the copy of counter affidavit is duly served on learned counsel for the petitioner by Friday.

List this matter on 31<sup>st</sup> August, 2020 for final disposal.

Mr. Ram Kinker Chaubey, learned counsel representing Accountant General is present."

Today Mr. Amit Bhushan, learned AC to GP-17 has informed that he has served the copy of counter affidavit on learned counsel for the petitioner. Mr. Amit Bhushan had also talked to learned Advocate on 25.08.2020 itself. It is thus submitted that the order of this Court has been complied with.



Today also, though the link has been sent to learned counsel for the petitioner, he has not joined the proceeding. No telephonic prayer has been made for adjournment.

In such circumstances, the statements made in the counter affidavit filed on behalf of respondent no. 5 are accepted. The grievance of the petitioner has been redressed by the respondents, hence this writ application need not proceed.

The application is, thus, disposed off having become infructuous.

**(Rajeev Ranjan Prasad, J)**

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

