

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.897 of 2020

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1. Md. Khalid, minor Son of Late Md. Isha Jamali, through their mother and natural guardian, Farjana Khatoon @ Alima Khatoon, Resident of village- Ward No. 06, Lilhaul, P.S - Singhia, District- Samastipur.
 2. Md. Arsad Jamali, minor Son of Late Md. Isha Jamali, through their mother and natural guardian, Farjana Khatoon @ Alima Khatoon, Resident of village- Ward No. 06, Lilhaul, P.S - Singhia, District- Samastipur.
 3. Farjana Khatoon @ Alima Khatoon, Wife of Late Md. Isha Jamali, Resident of village- Ward No. 06, Lilhaul, P.S - Singhia, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Secondary Education, Government of Bihar, Patna.
2. The District Education Officer, Samastipur.
3. The District Programme Officer, Samastipur.
4. The Accountant General, Government of Bihar, Patna.
5. The District Treasury Officer, Samastipur.
6. Afsari Khanam, Wife of Late Md. Isha Jamali, Daughter of Jhammanbabu, Resident of Mohalla - Faijullah Kha dehuri, Khanchok, P.S. and District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr.Mohammad Sufyan, Advocate
For the S t a t e	:	Mr.Ashutosh Ranjan Pandey,AAG-15
For the Accountant General	:	Mr. Ram Kinker Choubey, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 23-06-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from



their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the learned counsel for the State as well as the learned counsel appearing for the Accountant General.

Learned counsel for the petitioners submits that the petitioners are the minor children and the second wife of deceased employee. They have made a claim for their proportionate share in the family pension of Late Md. Isha Jamali, who was a Government employee.

The submission is based on a Notification dated 27.06.2011, bearing Memo No.1549, issued by the Finance Department, Government of Bihar, Patna. The representation (Annexure 4) of the petitioners in this regard has been submitted before the District Education Officer, Samastipur (Respondent No.2). In view thereof, the petitioners' claim was required to be considered, in accordance with law and the extant Government decisions/notification/instructions in this regard. The same has not been done.

Learned counsel appearing on behalf of the State submits that only if the petitioners are found entitled, then the payment can be made.

The nature of submission advanced does not call for



any adjudication and pendency of the writ petition would be futile.

The District Education Officer, Samastipur (Respondent No.2) is hereby directed to take a final decision and pay the family pension found admissible to the petitioners along with a details of calculation in support of the amount being paid within a period of eight weeks from the date of receipt/production of a copy of this order.

In case the Respondent No.2 finds that the family pension is not admissible, he would be under a legal obligation to assign reason for rejecting such claim under due intimation to the petitioners. The entire exercise must be completed within the aforesaid time.

With the aforesaid observations and directions, the writ petition stands disposed of.

(Madhuresh Prasad, J)

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