

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 433 of 2020**

*{Arising out of order dated 01.10.2020 passed by the learned Single Judge in
Writ Petition (S) No. 3840 of 2020}*

- Chief Municipal Officer, Nagar Panchayat Simga, District Baloda Bazar
Bhatapara, Chhattisgarh.

---- Appellant**Versus**

1. Gajendra Kumar Sahu, S/o Lekh Ram Sahu, aged about 37 years,
working as Teacher (P.T.I.) (Nagriya Nikay) at Government Boys Higher
Secondary School Simga, Block Simga, District Baloda Bazar-Bhatapara,
Chhattisgarh.
2. State of Chhattisgarh, Through the Secretary, Department of Urban
Administration and Development, Mahanadi Bhawan, Naya Raipur,
District Raipur, Chhattisgarh.
3. Secretary, Department of Panchayat and Rural Development, Mahanadi
Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
4. Joint Director, Department of Urban Administration and Development,
Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh.
5. District Education Officer, Baloda Bazar-Bhatapar, District Baloda Bazar
Bhatapara, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Jitendra Pali, Advocate.
For Respondent No. 1	:	Shri Govind Dewangan, Advocate.
For Respondents No. 2 to 5	:	Shri Vikram Sharma, Deputy Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

21.01.2021

1. Challenge is against the Annexure A/1 verdict dated 01.10.2020 passed by the learned Single Judge, whereby the writ petition was disposed off, directing the Respondents concerned to take an appropriate decision with regard to the relief sought for at the earliest and to release the arrears of payment which the writ Petitioner is entitled for.
2. The learned counsel for the Appellant submits that the observations made in the judgment amounts to deciding the *lis* in favour of the Petitioner/Respondent No. 1 and since it has been made without providing an opportunity of hearing to the Appellant, the matter requires to be interdicted by this Court.
3. The learned counsel for the Appellant submits that the verdict passed by the learned Single Judge is with reference to the judgment passed in **Mukesh Kumar Patel vs. State of Chhattisgarh, Writ Petition (S) No. 2530 of 2017** decided on 26.11.2017 (which benefit was sought to be granted to the writ Petitioner as well) for granting the benefit of revised pay scale on completion of 8 years of service. According to the learned counsel for the Appellant, the writ Petitioner's/Respondent No. 1 case is different from the case of **Mukesh Kumar Patel (supra)** and further that the Department of Urban Administration and Development has adopted the policy of revised pay scale only without any retrospective effect, by which the teachers working under Municipal bodies would be provided the similar benefits.

4. We heard the learned counsel for the writ Petitioner/Respondent No. 1 herein as well.

5. The prayers in the writ petition were in the following terms:

“10.1. That, this Hon'ble Court may kindly be pleased to call for the entire records in relates to the case of the petitioner from the possession of respondents for its kind perusal.

10.2. That, this Hon'ble Court may kindly be pleased to direct the respondents authority to release the entire arrears of payment of revised pay scale which the petitioner is entitled from the date of his completion of 8 years of service with annual interest @ 18%.

10.3. That, this Hon'ble Court may kindly be pleased to grant any other relief/relief's in favour of the petitioner, which the Hon'ble Court deemed fit and just in the facts and circumstances of the case, including awarding of the costs of the petitioner.”

6. The operative portion of the judgment as contained in paragraph 3 is to the following effect:

“3. Without entering into the merits of the case and taking into consideration the judgment of this Court in the case of *Mukesh Kumar Patel (supra)* which has also been affirmed by the Division Bench and taking note of the fact that respondents have complied with the order to the extent of granting revised pay scale to the petitioner, let respondents No. 2 to 4 taken an appropriate decision at the earliest so far as release of the arrears of payment which the petitioner is entitled for. Expecting a decision from the respondents within a period of 90 days from the date of receipt of copy of this order, the present writ petition stands disposed off.”

7. As observed by the learned Single Judge in paragraph 3, no adjudication has been made with regard to the merits of the case, but for causing the matter to be considered and finalized also with reference to the verdict passed by the Court in ***Mukesh Kumar Patel (supra)*** which is stated as affirmed by the Division Bench.

8. We make it clear that the eligibility of the writ Petitioner/Respondent No.1 to get the relief sought for has not been adjudicated by the learned Single Judge and as such, it is open for the Appellant to have the matter considered in all respects including the question of eligibility. An opportunity of hearing shall be afforded to the writ Petitioner/Respondent No.1 in this regard. Since the time stipulated by the learned Single Judge to have the matter finalized is already over, we hold that the matter shall be finalized within a further period of 'two months' from the date of receipt of a copy of this judgment.
9. The appeal stands disposed off accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge