

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17401 of 2022

Dayanand Prasad Son of Late Sakhichand Prasad, resident of Village-Madhopur, P.S.- Chandi, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Nalanda at Biharsharif.
4. That District Education Officer, Nalanda at Biharsharif.
5. The District Programme Officer (Establishment), Nalanda at Biharsharif.
6. The Block Education Officer, Nagarnausa, Nalanda.
7. The Headmaster, Utkramit Middle School Ashraypur, Block- Nagarnausa, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bhola Kumar, Adv.
For the Respondent/s : Mr. Subhash Chandra Mishra (SC 16)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 21-12-2022 1. The petitioner by way of this writ petition has
prayed for following reliefs :-

“That the petitioner invokes the writ jurisdiction of this Hon’ble Court for grant of the following Reliefs:-

A. For issuance of a writ in the nature of Mandamus Commanding the Respondents concerned to pay the salary of the petitioner at the post of Block Teacher from 17.02.2016 to till date.

B. For quashing the letter dated 22.05.2020 contained in Memo No. 1995 dated 22.05.2020 issued by the District Programme Officer (Establishment), Nalanda (Respondent No.-5) whereby and whereunder the petitioner has been restrained to make signature in attendance register of the School till further order.

C. For a further direction upon the Respondents to not to give effect to impugned letter as contained in Memo No. 1995 dated 22.5.2020 (Annexure-4) issued by



Respondent No.-5 and allow the petitioner to make signature in the School attendance register and work smoothly during the pendency of the instant writ application.

D. To pass any other order/ orders in shape of a consequential relief to which the petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand.”

2. The petitioners pray that their salary be released.

3. Keeping in view the observations made by this Court in **C.W.J.C No. 22186 of 2019 (Pallavi Kumari Vs. State of Bihar & Ors.)** and analogous cases dated 29.11.2022 has held as under:-

“8. Keeping in view above, it is directed that the salary of the teachers shall not be withheld on excuses as above and arrears of salary shall also be released. Fund in this regard shall be made available by the Education Department to the concerned employment units for the purpose of payment. It is made clear that if the arrears are not released within a stipulated period of four months from today, the teachers would be entitled to receive interest on the arrears of the amount of salary at the rate of nine per cent. The interest amount shall be recoverable from the respective District Education Officers/ District Programme Establishment Officer.

9. If the salary/arrears of salary are not released, the concerned teacher would also be entitled to file an appeal before the respective District Appellate Authority. If such an appeal is preferred, the same shall be decided expeditiously within a period of three months. If required, the District Appellate Authority/State Appellate Authority would be also empowered to impose penalty in terms of Rule 16 of the Rules of 2020 which provides as under:

“16. Power to impose Punishment:-



In case of non-compliance of the order/direction or in case of any complaints by the party for compliance of the order:-

(i) The Appellate Authority shall impose punishment against-concerned party but he will be given adequate opportunity of hearing before imposing punishment.

(ii) The Appellate Authority may impose penalty upto Rs. 50,000/- (Fifty thousand only) upon the answerable party. The amount of penalty shall be deposited in the Treasury under the head indicated by the Department. The amount of penalty shall be recoverable by way of Public demand.

(iii) The Appellate Authority shall have jurisdiction to make recommendation to the concerned Department to initiate Departmental proceeding or to take necessary action against the delinquent employee under the provisions of Bihar Service Code/Bihar Panchayat Raj Act 2006/Bihar Municipal Act 2007 and other relevant provisions.”

4. Keeping in view above, the same directions are held to be applicable in the present case *mutatis mutandis*.

5. The writ petition is allowed accordingly.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 20

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