

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.573 of 2018**

**In**  
**Miscellaneous Appeal No.44 of 2017**

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Md. Modakkir Hashmi, son of Late Md. Kamil Hashmi, resident of village –  
Manjhia, P.S. - Baksama, P.S. - Mahua, O.P. Baksama, District – Vaishali.

... .. Petitioner

Versus

Afroz Khatoon, W/o Md. Modakkir Hashmi, resident of village – Manjhia,  
P.S. - Baksama, P.S. - Mahua, O.P. Baksama, District – Vaishali.

... .. Respondent

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**Appearance :**

|                      |   |                                      |
|----------------------|---|--------------------------------------|
| For the Petitioner   | : | Mr. H.S. Himkar, Advocate            |
|                      |   | Mr. Rajeev Ranjan, Advocate          |
| For the Respondent   | : | Mr. Prashant Kumar, Advocate         |
|                      |   | Mr. Shashank Shekhar Dubey, Advocate |
| For the Opp. Party   | : | Mr. Akhileshwar Dayal, APP           |
| For the DEO Vaishali | : | Mr. Ajay Kumar Sharma, Advocate      |

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

8      20-07-2022                      Heard Mr. H.S. Himkar, learned counsel duly assisted  
  
by Mr. Rajiv Ranjan, the Advocate on Record, Mr. Prashant  
  
Kumar, learned counsel for the opposite party, Mr. Ajay Kumar  
  
Sharma, learned counsel for District Education Officer, Vaishali  
  
and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Pursuant to the order dated 05.07.2022 the warrant of  
arrest earlier issued against the petitioner has been executed by  
the Superintendent of Police, Vaishali at Hajipur. The petitioner  
has been produced in this Court.

Mr. Maneesh, the Superintendent of Police, Vaishali at  
Hajipur is present in-person. A show cause has been filed on his



behalf wherein in paragraph '5' a statement has been made that by two pay-slips a sum of Rs. 72,000/- and Rs. 46,000/- respectively have been credited in the account of opposite party in compliance of the order passed by learned Principal Judge, Family Court, Siwan.

The Superintendent of Police has submitted before this Court that he was not made aware of the NBW issued against the petitioner by the concerned police station and that is why it escaped his attention in course of reviews undertaken for the execution of the pending warrant of arrest in different police stations. The Superintendent of Police further informs this Court that he is looking into the matter and will fix the responsibility upon the erring police officers of the concerned police station because of whose laxity the NBW remained pending. This Court accepts his show cause in view of the submissions above.

A show cause has been filed on behalf of the District Magistrate, Vaishali at Hajipur. His show cause only states that the District Education Officer, Vaishali vide his letter no. 915 dated 16.07.2022 has informed him as to the compliance of the order passed by the learned Principal Judge. There is no statement at all as to why the District Education Officer, Vaishali did not comply with the order of the learned court



below for all these years. The show cause seems to have been filed by way of a mere formality. It was expected from an officer in the rank of District Magistrate to be more responsible while filing a show cause in the Court. He was also expected to find out at his own level the reasons for non-compliances and the responsibility should have been fixed upon the persons who failed to execute the order but unfortunately the District Magistrate, Vaishali has not at all looked into those aspects of the matter.

Since this Court is not willing to keep the matter pending only for these reasons, the show cause is being taken on the record but with a word of caution to the District Magistrate, Vaishali that while filing a show cause in such matters he should show some more responsibility by answering all such ancillary issues which are being considered by this Court. For the present, the show cause is accepted.

A show cause has also been filed on behalf of the District Education Officer, Vaishali at Hajipur. He has also only stated what has been done at his end after receipt of the order of this Court. There is no explanation as to why the order could not be complied with. He has even not disclosed the name of the officers/predecessors in office who remained sitting over the



matter.

The show cause filed on behalf of the District Education Officer is only a half-hearted affidavit just to somehow get rid of this case.

At this stage, this Court finds that because of inaction on the part of the District Education Officer a poor lady who had been awarded a meagre amount of maintenance allowance of Rs. 2000/- (Two Thousand) per month remained waiting for the money. Such officers cannot be allowed to let go without adequately dealing with their inaction and the resultant consequences. This Court, therefore, directs the Registry to institute a suo-motu contempt proceeding against the District Education Officer, Vaishali at Hajipur.

Let the contempt proceeding be listed before an appropriate Bench after seeking permission of Hon'ble the Chief Justice.

The petitioner is being represented by Mr. H.S. Himkar, learned counsel duly assisted by Mr. Rajiv Ranjan, the Advocate on Record. Learned counsel submits that in fact the petitioner being a teacher should not have come to this Court against the maintenance allowance of Rs. 2000/- per month and according to him the revision application itself seems to be ill-



advised.

Learned counsel submits on instruction from the petitioner that considering his present salary of Rs. 35,000/- per month, the petitioner is ready to pay a sum of Rs. 5000/- to his wife with effect from the month of July 2022 in order to show his bonafides. This would, however, be subject to his rights and contentions which he may agitate by filing an appropriate application in the learned court below, if occasion so arise, in accordance with law.

This Court makes it clear that the petitioner has undertaken to pay Rs. 5000/- per months from the month of July, 2022 which will be deducted from his salary by the District Education Officer, Vaishali and the same will be remitted in the account of the opposite party so long as the learned court below does not alter or modify the order awarding maintenance. If any such application is filed on behalf of the petitioner in the learned court below, the same will be considered on it's own merit without being influenced by any observation of this Court. The District Education Officer, Vaishali shall further ensure that the remaining amount of Rs. 16,000/- (Sixteen Thousand) against the arrears be also remitted to the opposite party in the next month.



Mr. H.S. Himkar, learned counsel has submitted on instruction of learned Advocate on Record that he would not press this application and it may be permitted to be withdrawn.

Since the petitioner who is a panchayat teacher has avoided the order of the learned court below for several years and ultimately only because of the efforts made by this Court he could appear today, considering that he made the opposite party to contest the litigations all these years, this Court awards a cost of litigation assessed at Rs. 20,000/- (Rupees Twenty Thousand) which will be payable to the opposite party by the petitioner within a period of two months from today.

Let the petitioner be released on PR bond.

This application, thus, stands disposed of with the aforesaid directions and observations.

Since the proceeding itself has come to an end, it follows that there will be no need of personal appearance of Superintendent of Police, Vaishali at Hajipur henceforth.

**(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'.

