

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6108 of 2023

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Upendra Paswan Son of Khakhan Paswan, resident of village - Rampur, P.O.
Bishanpur Haribabhir P.S. Korha, District - Katihar - 854115.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department Government of Bihar, Patna.
3. The District Magistrate, Katihar.
4. The District Education Officer, Katihar.
5. The District Programme Officer (D.P.O.) (Establishment) Education Department, Katihar.
6. The Block Education Officer, Korha, District - Katihar.
7. The Head Master, Madhya Vidyalaya Bishanpur (Kohra), District - Katihar.
8. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amrendra Kumar Shrivastawa, Advocate Mr. Surendra Kumar, Advocate
For the State	:	Mr. Madhukar Mishra, AC to SC-16
For the A.G.	:	Mr. Binod Kumar Labh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 25-09-2023

Heard Mr. Amrendra Kumar Shrivastawa, learned counsel appearing on behalf of the petitioner; Mr. Madhukar Mishra, learned counsel appearing on behalf of the State and Mr. Binod Kumar Labh, learned counsel for the Accountant General, Bihar.

2. Learned counsel appearing on behalf of the petitioner submitted that an amount of Rs. 76, 230/- has been recovered from the gratuity of the petitioner which is not in accordance with law. Learned counsel seeks to file a detailed



representation before the District Programme Officer (Establishment), Katihar for recalling his order dated 16.12.2022 considering the fact that the said order is misconceived as the District Programme Officer (Establishment), Katihar has treated the financial upgradation on which account the pension of the petitioner was fixed to be promotion. The status with respect to the financial upgradation and the regular promotion has been clarified by the Apex Court in number of decisions and finally has been kept at rest in case of ***S.L.P.(C) Nos. 8219-8226 of 2019, Amresh Kumar Sinha and Ors. Vs. The State of Bihar and Ors.***

3. Considering the aforesaid submission made on behalf of the petitioner, the petitioner may file a detailed representation before the District Programme Officer (Establishment), Katihar. The District Programme Officer (Establishment), Katihar is directed to recall his order dated 16.12.2022 and after giving an opportunity of hearing to the petitioner decide the case of the petitioner in light of proposition of law laid down in case of ***S.L.P.(C) Nos. 8219-8226 of 2019, Amresh Kumar Sinha and Ors. Vs. The State of Bihar and Ors*** as well as he is also required to consider the law laid down by the Apex Court in case of ***Thomas Daniel v. the State of***



Kerala & Ors. reported in *2022 SCC OnLine SC 536* considering the fact that no misrepresentation or any misappropriation of public money is made by the petitioner rather the recovery is on account of incorrect fixation of pay according to the District Programme Officer (Establishment), Katihar, which according to the judgment passed by the Apex Court, has to be analysed by him.

4. With above observations and directions, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/Ashish

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	27.09.2023
Transmission Date	N/A

