

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.543 of 2015

In
Civil Writ Jurisdiction Case No.4031 of 2014

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1. The State of Bihar.
 2. The Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
 3. The Director, Primary Education, Human Resource Development Department, Govt. of Bihar, Patna.
 4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
 5. The District Education Officer, Saharsa.
 6. The District Education Officer, East Champaran, Motihari.

... .. Petitioner/s

Versus

Sriram Mahto, Son of Ram Bilash Mahto. Resident of Maghur, P.O. - Sanghar Sultanpur, P.S. - Bhagwanpurhat, District - Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vasant Vikas, Advocate

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

7 19-06-2023 Heard learned AC to SC-24.

No one appears on behalf of the opposite party and as per the last office report dated 18.03.2023 the undelivered registered cover (Flag-C) shows that he refused to receive the notice. As such, the same be deemed to have been served upon him.

The State of Bihar has preferred this petition for modification of the order dated 21.07.2014 passed by a bench of this Court (Hon'ble Mr. Justice J.N. Singh, since retired) and the relevant portion is incorporated herein below:



In the circumstances, this Court has no option, but to allow this writ application. The order of punishment as contained in Annexure-10 with the I.A. is therefore quashed. This Court further quashes the enquiry report of the enquiry officer as the same was submitted only on the basis of the opinion of the Presenting Officer who had no authority to submit his opinion and advise the Conducting Officer to make recommendations in a particular manner. The respondents are granted liberty to hold a fresh proceeding against the petitioner from the stage of framing of charge, if they are so advised, and conclude the same strictly in accordance with the Rules and after giving due and fair opportunity to him to participate at every stage. If they decide to hold a fresh proceeding on the charges framed against the petitioner with the show cause notice to him they shall be at liberty to treat him under suspension again. But in that situation the notice must be issued within one month from the date of receipt/production of this order after payment of entire subsistence allowance and the proceeding must conclude within three months from the date of service of such notice on the petitioner. If that is not done the suspension of petitioner shall



automatically stand revoked and he shall be entitled to join his duties on the place of his posting from where he may be suspended and his controlling authority shall accept his joining and allow him to work with payment of his salary etc. in accordance with law and the respondents shall be deprived of the liberty to proceed against him any further in the matter.

This writ application is accordingly allowed with the aforesaid observations and directions.”

It is important to take note of the said order dated 21.07.2014 in which it was categorically observed that “*But in that situation the notice must be issued within one month from the date of receipt/production of this order after payment of entire subsistence allowance and the proceeding must conclude within three months from the date of service of such notice on the petitioner. If that is not done the suspension of petitioner shall automatically stand revoked and he shall be entitled to join his duties on the place of his posting from where he may be suspended and his controlling authority shall accept his joining and allow him to work with payment of his salary etc. in accordance with law and the respondents shall be deprived of the liberty to proceed against him any further in the matter.”*



As stated the order was passed on 21-07-2014. It is not the case of the State of Bihar that failure to conclude the proceeding within three months any petition was promptly preferred before the court for extension of time.

On 10.03.2015 i.e. after eight months of passing of the order, the present modification application was preferred.

In that view of the matter and considering the observation made by the Court in its order dated 21.07.2014 and further failure of the State of Bihar to take remedial measure within the time frame, as stated above no relief can be granted.

The petition as such stands dismissed.

The State of Bihar always have the liberty to file appeal against the said order dated 21.07.2014, if it so wants.

(Rajiv Roy, J)

Prakash Narayan /-

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