

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19457 of 2021

1. The Higher Secondary Guest Teacher Association Bihar, Patna (A registered unit), Head Office-Flat No. 13 Block-5, Flat No. -13, BH Colony Behind SBI ATM, Bhutnath Road, District-Patna-26.
2. The President, The Higher Secondary Guest Teacher Association, Bihar, Patna (A registered unit) namely Vijay Prasad aged about 52 years (Male) son of Akhileshwar Prasad, Flat No. 13 Block-5, Flat No. -13, BH Colony Behind SBI ATM, Bhutnath Road, District-Patna-26.
3. The Vice-President The Higher Secondary Guest Teacher Association Bihar, Patna (A registered unit) namely Smt. Champa Kumari Singh, aged about 30 years (Female) Wife of Niraj Kumar Singh, resident of Mohalla-Naya Tola, Fulwari, Ward No. 36, Katihar, District-Katihar.
4. The General Secretary, The Higher Secondary Guest Teacher Association Bihar, Patna (A registered unit) namely Bipin Bihari Prasad, aged about 30 years (Male), son of Shiv Shankar Prasad, resident of Mohalla-Anand Bihar Colony, Mustafabad, Gaya, District-Gaya-823001.
5. The Treasurer, The Higher Secondary Guest Teacher Association Bihar, Patna (A registered unit) namely Shivdutt Kumar Pal, aged about 33 years (Male) son of Shashilendra Kumar, resident of Village-Nanad (Nalanda) District-Nalanda-803115.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Higher Education Department of Bihar, Bihar, Patna.
2. The Director Secondary Education, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dharendra Singh, Adv.

For the Respondent/s : Mr. Madhukar Mishra, AC to SC 16

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 4 12-01-2023 1. This writ petition is preferred by Association praying therein that the guest teachers who were selected and appointed by the respondent State and were prevented to perform their duties during the second lock down period on from April to 11 July, 2021 should be paid remuneration. In



light of the order passed by the Government of India dated 8th June, 2021, learned counsel for the petitioner submits that the State Government had taken a decision to release the salary of the Guest Teachers in the first lock down which occurred on account of COVID-19 pandemic. Learned counsel for the petitioner submits that similarly, for the second lock down period also, the Guest Teachers should be granted their due remuneration.

2. Per contra, learned counsel for the respondent, submitted that the writ petition would not be maintainable at the behest of an unrecognized, unregistered Association and relies on the judgment passed by the Supreme Court in Case of **Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra** as reported in **(2013) 4 Supreme Court Cases 465**.

3. On merits, learned counsel appearing for the State has submitted that the Guest Teachers are essentially daily-wagers and are entitled for remuneration of rupees one thousand per day with a maximum of 25 days in a month, for the days when they have worked and as during the outbreak of pandemic COVID-19 second lock down, the teaching work had been completely suspended, the services of the Guest Teachers could not be taken in and, therefore, they are not entitled for the



remuneration during the period of lock down.

4. I have considered the submission, while the judgment passed by the Apex Court makes an observation with regard to non maintainability of a writ petition at the behest of unrecognized Association, however, it has proceeded to pass certain orders in their favor. In the present case, admittedly, the members of the Association are also Guest Teachers and deponents are personally aggrieved of the inaction of the State. Therefore, considering the wide scope available under Article 226 of the Constitution of India which provides for allowing a person to take up redressal of his grievances as against any person, body or State. In opinion of this, Court the writ petition need not be ousted on the said objection.

5. With regard to the merits of this case, this Court finds that respondents had taken a decision vide their order dated 28th July, 2020 to release the remuneration to the Guest Teachers for the lock down declared in July 2020. Up to July, 2020, payment has been released. It appears that for the second lock down, orders have not been passed by the authorities resulting in this petition. Now, the respondents have taken a stand that the petitioners viz. Guest Teachers are daily wagers and they would be paid only if they had performed their duties.



6. This Court finds that the Guest Teachers are those who are selected by a method adopted for selection akin to regular teachers by their departments. They are set of teachers who are asked to perform duties in places where there are vacant post of teachers. Thus, they perform similar duty to a regularly appointed teachers and if the schools would have been functioning, they would have been asked to perform their duties and would have been paid their remuneration. Thus, it is a case where they have been forcefully prevented on account of COVID 19 pandemic, from not performing their duties which has resulted in denying them their due salaries which may be per day basis.

7. Considering that the respondents had already taken a decision for release of salary for the first lock down period, no reason is coming forward as to why the petitioners should be denied the same benefit for the second lock down period too. The action of the respondents in not releasing the remuneration for the second lock down period is found to be arbitrary and discriminatory. The State cannot be allowed to take different stand in relation to similarly placed persons.

8. In view thereof, directions are issued to the respondents to release the payment of remuneration for the



second lock down period to the Guest Teachers who were selected and were authorized to perform their duties during the second lock down period, had the school been functioning at that relevant time. Accordingly, this writ petition is allowed.

9. Action should be taken to release the amount within a period of two months.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 2

U			
---	--	--	--

