

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20451 of 2021

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Munna Kumar, Son of Shri Jagdish Prasad Yadav, Resident of Village -
Bhelbinda, P.O. - Karahara, P.S. - Jhajha, District - Jamui.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Education Department,
Bihar, Patna.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Jamui.
5. The District Education Officer, Jamui.
6. The District Programme Officer, (Estb.), Jamui.
7. The Block Education Officer, Jhajha.
8. The Panchayat Secretary, Gram Panchayat Raj, Baijla P.S. Jhajha District -
Jamui.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate
For the Respondent/s : Mr. Jai Prabhat Kishore, AC to SC-13

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 25-09-2023 The petitioner has already received his salary for the

period from December, 2018 to September, 2022. A statement

has been made in paragraph '11' of the counter affidavit that for

the rest of the period, his due salary as well as current salary

will be paid after receiving the allotment from the Government.

2. To that extent, there is no quarrel as the respondents

have agreed to pay the petitioner for the period he has worked or

is working but the real question which has now fallen for

consideration and that is a hindrance in the way of the

petitioner with his further continuation in service is the Memo



No. 1385 dated 08.10.2021 issued by the District Programme Officer (Estb.), Jamui.

3. In fact, the District Education Officer (Estb.), Jamui has conducted an inquiry into the legality and validity of the appointment of the petitioner and this has been done in compliance with the order of this Court passed in CWJC No. 20728 of 2019. In course of inquiry, it has been found that the petitioner had obtained Diploma in Civil Engineering, therefore, whether he would be entitled to continue in service and draw salary as a Teacher. It has been observed in the impugned memo (Annexure '9') that the petitioner has obtained Diploma in Civil Engineering from the Board of Technical Examination, Maharashtra and on this basis, he has been appointed as Panchayat Teacher whereas according to Clause (क) of Sub-Rule 2 of Rule 8 of the Bihar Panchayat Elementary Teacher (Employment and Services Conditions) (Amendment) Rule, 2008, the candidate must have passed his Higher Secondary/ Intermediate or equivalent examination from a School/College/Board recognised by the Government and under the same Rule, it is provided that the said qualification would not include a degree in any Technical Education (Polytechnic, Unani Education etc.), Physical Education and others. It has



been held by the District Programme Officer (Estb.), Jamui that it was incumbent upon the Executive Officer-cum-Block Development Officer and the Employment Unit to check the certificates of eligibility and training and in case those are found wrong, legal action is to be taken for cancellation of appointment. It has been held that the Polytechnic certificate taken from the Board of Technical Examination, Maharashtra is not a valid degree for appointment as Teacher.

4. Having said so, the District Programme Officer (Estb.) directed the Block Employment Unit, Jhajha to take appropriate action.

5. It is not known what action has been taken by the Employment Unit and the consequence of not taking any action despite the order of the District Programme Officer (Estb.), Jamui as contained in Memo No. 1385 Jamui dated 08.10.2021 would go to the concerned Employment Unit. At appropriate stage, if it is found that they have kept the matter pending for no reason as there is no order of stay from this Court, they may have to explain and bear the consequence.

6. Be that as it may, at this stage, learned counsel for the petitioner submits that since the impugned office order as contained in Annexure '9' is an appellable order before the



District Teachers Appellate Authority, he would seek permission to withdraw this application and avail the alternative statutory remedy before the District Teachers Appellate Authority.

7. Learned counsel for the State has no objection to the petitioner withdrawing this application and seeking his alternative remedy.

8. While permitting the petitioner to withdraw this application and apply for his remedy in accordance with law, this Court would observe that in case the District Teachers Appellate Authority, Jamui is called upon to decide the lis, the same must be done at the earliest and within a reasonable period.

9. In the meantime, it is open for the Employment Unit to act in accordance with law.

10. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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