

Letters Patent Appeal No 703 of 2022

Civil Writ Jurisdiction Case No 14492 of 2022

- Appellant/s

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Director, Prime Minister, Poshan Yojna (Mid Day Meal), Bihar, Patna.
5. The District Education Officer, Samastipur.
6. The District Programme Officer, Mid Day Meal Yojna, Samastipur.
7. The District Programme Officer, Establishment, Samastipur.

... Respondent/s

For the Appellant/s : Mr Surendra Kumar Singh, Sr Advocate with
M/s Raj Dular Sah, Praveen Prakash, Advocates
For the S t a t e : Mr Apurva Kr, AC to GA XII
For the Mid Day Meal : Mr Girijesh Kumar, Advocate

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR JUSTICE MADHURESH PRASAD**

ORAL JUDGMENT

Date : 26-04-2023

The appellants' contention is that teachers cannot be assigned duties for preparation of Mid Day Meal and other non-educational purposes. It was their contention before the learned



Single Judge that the duties, as directed in the order dated 14.02.2022 issued by the Director Prime Minister's Mid Day Meal Scheme (for brevity, *the Scheme*) to all District Education Officers with regards implementation of the Scheme and the consequential order dated 17.03.2022 issued by the District Programme Officer are unsustainable. It is their case that in view of the provision contained in Section 27 of the Right to Education Act, 2009 (for the brevity, *the Act*), the Teachers cannot be asked to perform duties other than what is mentioned. The learned Single Judge has found that the order passed by the District Programme Officer does not direct the Headmasters/Teachers to prepare Mid Day Meals. They have merely been asked to supervise effective implementation of the scheme to ensure that the children are provided their requisite Mid Day Meal.

2 The appellants, however, refused to conduct the supervision.

3 As a result, on 14.05.2022, the appellants were placed under suspension in contemplation of proceeding by issuance of a charge memo, which the learned Single Judge has refused to interfere with.

4 Learned Single Judge has held that supervision of the



school is a general responsibility which the Headmasters are required to perform and which cannot be avoided.

5 Having considered representations filed by the appellants against their suspension, the learned Single Judge has recorded the conclusion that even in their representation, there is no averment by the petitioners alleging that they were being asked to prepare food or duties in connection with the preparation of food. Learned Single Judge has therefore refused to interfere with the orders issued by the authorities, including suspension of the appellants.

6 The order of the learned Single Judge has been challenged by way of Intra Court Appeal, hence the instant matter is before this Court.

7 The learned Senior Counsel, in these proceedings, has now filed an affidavit sworn undertaking by way of supplementary affidavit on behalf of the appellants that the appellants are ready to do the work of supervision in light of the order impugned as well as observation made in paragraph 9 of the judgment of the learned Single Judge. They have placed on record example of another person who was suspended on the same ground, who has been reinstated.

8 The said person is not before this Court. This Court,



therefore, without going into the claim based on parity, would observe that in view of the undertaking submitted by the appellants, interest of justice would be served by revoking the petitioner’s suspension imposed by order dated 14.05.2022. We do so.

9 Since better sense has prevailed over the petitioners, this Court is of the opinion that the matter be given a quietus. Beyond subsistence allowance received by the appellants during the period of suspension, they shall not be entitled to any other pecuniary benefits. However, continuity of their services is required to be maintained.

10 With these modifications in the order of the learned Single Judge, this Letter Patents Appeal is dismissed.

(K Vinod Chandran, CJ)

(Madhuresh Prasad, J)

M.E.H./-Uttam/

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2023
Transmission Date	NA

