

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2298 of 2019

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1. Kamlesh Sharma and Ors S/o shri Ramjanam Sharma R/o shri Krishnapuri Colony PS jehanabad District Jehanabad
 2. Bindu Roy W/o Shri Bimal Roy R/o Manberia Barakar, Barakar District Bardhaman
 3. Uday Kumar singh S/o Shri Anant Prasad Singh r/o Kumhwan,district Jehanabad
 4. Poonam Kumari w/o Shri Rakesh Kumar R/o Pawa PS Pawa District Nalanda
 5. Neha Kumari D/o Late Ram Ratan Thakur , R/o Raza Bazar PS jehanabad District Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors Through The Principal Secretary Education Department Bihar Patna
2. Principal Secretary Finance Department Bihar Patna bihar Patna
3. Director Secondary Education Bihar Patna Bihar
4. Special Director Secondary Education bihar Patna Bihar Patna
5. Bihar Sanskrit Education Board Patna Through its Secretary
6. Chairman Bihar Sanskrit Education Board Bihar Patna
7. Secretary Bihar Sanskrit Education Board Bihar patna
8. District Education officer Jehanabad Bihar
9. District Programme Officer Establishment jehanabad Bihar
10. Secretary Managing Committee Venkatesh Primary cum Sanskrit High School,Jehanabad Bihar

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7030 of 2019

Ajay Kumar Singh Son of Late Sheo Kishore Singh Posted as Clerk and Peon, respectively in Vankatesh Sanskrit Primary-cum- High School Vankatesh Nagar, Raza Bazar, P.S.- Raza Bazar, District- Jehanabad.

... .. Petitioner/s

Versus



1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Special Director, Secondary Education Bihar, Patna.
3. The Special Secretary, Department of Finance Government of Bihar, Patna.
4. The Director, Secondary Education Bihar, Patna.
5. The Bihar Sanskrit Education Board Patna through its Secretary.
6. The Chairman, Bihar Sanskrit Education Board Patna.
7. The Secretary, Bihar Sanskrit Education Board Patna.
8. The District Education Officer Jehanabad.
9. The District Programme Officer (Establishment) Jehanabad.
10. The Managing Committee of Vankatesh Sanskrit Primary-cum- High School Vankateshwar Nagar, Raja Bazar, Jehanabad through its Secretary.

... ... Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2298 of 2019)

For the Petitioner/s : Mr.Abhinav Srivastava

For the Respondent/s : Mr.Jitendra Kumar Roy1 (Sc13)

(In Civil Writ Jurisdiction Case No. 7030 of 2019)

For the Petitioner/s : Mr.Binod Kumar

For the Respondent/s : Mr.Subhash Chandra Mishra (Sc16)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 01-04-2024

As same order has been impugned in both these writ petitions, with consent of parties, they are being heard together and disposed of by this common order.

2. Heard learned counsel for the petitioners and learned counsel for the State.

3. That the present writ petition has been filed with a prayer for grant of the following reliefs:

“(1) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the order dated 26/10/2018 bearing number 1377 (Annexure-34) issued by the Additional Chief Secretary, Education Department, Bihar, Patna, by which the claim of the petitioners for being



made payment of salary while continuing in the capacity of Assistant Teachers at Venkatesh Primary-cum-Sanskrit High School, Jehanabad (hereinafter referred to as "the School") has been rejected on patently incorrect factual premise as also contrary to the orders and judgments passed by this Hon'ble Court in different cases;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities in the Education Department of the State Government to take steps towards ensuring payment of salary in favour of the petitioners who are continuously working against their respective posts of Assistant Teachers in different subjects at the School" by allocating necessary funds in favour of the School in a similar manner as other similarly situated persons working at the School are being made payment of their regular salaries on monthly basis;

(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government to take steps towards making payment of arrears of salary in favour of petitioners admissible to them on account of non-payment of salary during the period while they have discharged the duties in their respective capacities as teachers working at the School;

(iv) Any other relief/reliefs that the petitioner/petitioners may be found to be entitled to in the facts and circumstances of the present case."

4. The facts of the case, is that, the petitioners have been appointed against their respective posts pursuant to the decision taken by the concerned authorities at the School in terms of the provisions contained under the Bihar State Non-Government Sanskrit High School Service Conditions Rules, 1976 from time to time. By an office order dated 05.01.1976 issued by the concerned authorities in the office of the Secretary, Bihar Sanskrit Education Board, Patna, the school was granted



temporary recognition for the period between 01.04.1975 to 31.03.1976 on the basis of the decision taken by the concerned authorities in the Education Department of the State Government as well as Bihar Sanskrit Education Board, Patna, (Annexure-1 of the writ petition).

5. In furtherance of the decision taken by the concerned authorities under the Bihar Sanskrit Education Board, Patna, students were admitted at the School and, accordingly, they were imparted instructions by the teachers duly appointed at the School in accordance with law. Subsequently, an office order dated 25.03.1978 was issued by the concerned authorities under the Bihar Sanskrit Education Board, Patna, by which one post of science teacher in graduate trained scale and one post of matric trained teacher in primary branch was sanctioned in favour of the School in addition to two sanctioned posts of teachers. In the meantime, another office order dated 01.05.1978 was issued by the concerned authorities under the Bihar Sanskrit Education Board, Patna, by which on the basis of the decision taken by the concerned authorities under the said board, the School was granted permanent recognition with effect from 01/04/1978. Pursuant to grant of permanent recognition to the School, by different letters issued by the concerned authorities



under the Bihar Sanskrit Education Board, in terms of the norms of staffing pattern, different posts of teachers and non-teaching employees at the School were sanctioned in favour of the School and in this respect, it would be pertinent to refer to a letter dated 26.02.1981 issued by the Assistant Education Director (Sanskrit), Bihar, Patna, by which the Deputy Director of Education (School Education), Bihar, Patna was requested to release necessary funds for making payment of salary in favour of altogether 22 teaching and non- teaching employees working at two permanently recognized schools, which also included the School in question (Annexure-4 to the writ petition).

6. Learned counsel for the petitioners submits that from perusal of the aforesaid letter dated 26.02.1981, it would clearly demonstrate that by different letters issued by the concerned authorities under the Bihar Sanskrit Education Board, Patna, different posts of teaching and non-teaching employees at the School were sanctioned and accordingly, the concerned authorities under the Education Department of the State Government were requested to release necessary funds for allocation in favour of the School, to ensure payment of salary in favour of the employees working in such schools. In the meantime, pursuant to the decision taken by the concerned



authorities under the Education Department of the State Government, it was directed to conduct inspection of the School in order to ascertain its status and accordingly, the inspection of the School was conducted on 04.02.1981 by the Assistant Director of Education (Sanskrit), following which an inspection report was submitted and while examining the various aspects of the School, a report was submitted on 05.02.1981, from bare perusal of which it would clearly demonstrate that altogether 11 persons were shown to be working against different posts sanctioned at the School, including Principal, Assistant Teachers in different subjects and Peon; and as such, while recording about various details relating to the School, it was categorically recommended that payment of salary in favour of the employees of the School should be made, in favour of the teaching and non-teaching employees working at the School, unfortunately no action in the said respect was taken and as such, the teaching and non- teaching employees at the School could not get payment of their salaries. After several correspondences having been made on behalf of the management and teachers of the School before the concerned authorities under the Education Department of the State Government as well as Bihar Sanskrit Education Board, Patna, a letter dated 21.07.2006 was issued by



the Secretary of Bihar Sanskrit Education Board, Patna, by which the Director (Secondary Education), Bihar, Patna was requested to take steps towards the release of necessary funds in favour of the School so as to ensure payment of salary to the teachers and non-teaching employees working at the School (Annexure-6 to the writ petition).

7. The meeting of the members of Bihar Sanskrit Education Board, Patna was held on 24.04.2007, when, *inter alia*, by agenda no. 9, pursuant to the directions passed by this Hon'ble Court in one C.W.J.C. No. 8178/2004 by its order dated 12.09.2005, the proposal for making payment of salary in favour of the employees of the School was considered and duly approved by the concerned authorities under Bihar Sanskrit Education Board, Patna. Pursuant to the decision taken by the concerned authorities under Bihar Sanskrit Education Board, Patna, the employees working at the School, who had been appointed against different posts admissible under the norms of staffing pattern in accordance with law were entitled for being paid their salaries but unfortunately, no action in the said respect was taken. Subsequently, an order dated 06.05.2008 was passed by the Director (Secondary Education)-cum-Chairman, Bihar Sanskrit Education Board, Patna, by which while taking into



account the various aspects relating to the School, categorically recommended that necessary steps be taken by the State Government towards allotment of funds at the School for making payment of salary to the employees of the School and accordingly, from the following financial year, the School be included in the list of grant-in-aid Sanskrit Schools within the State of Bihar so that like other recognized schools, payment of salary to the employees of the School, in question could also be made.

8. Despite, the aforesaid order dated 06.05.2008 having been passed by the Chairman of Bihar Sanskrit Education Board, Patna, who also happened to be the Director (Secondary Education), Bihar, Patna, unfortunately, no action was taken by the concerned respondent authorities in the Education Department of the State Government towards allocating necessary funds in favour of the School so that payment of salary to its employees could be made.

9. An office order dated 15.11.2010 was issued by the concerned authorities at the School, by which in terms of the provisions contained under the Bihar State Non-government Sanskrit High School Service Conditions Rules, 1976, while treating the appointment of different persons, including the



present petitioners to be approved, orders for making payment of salary in their favour was passed; and while indicating various details relating to the present petitioners and other similarly situated persons working at the School, it was directed that the payment of salary in their favour was to be admissible in the pay scale approved by the State Government with effect from the date of their joining at the school (Annexure-9 to the writ petition). Subsequently, another office order dated 04.12.2010 was issued by the concerned authorities at the School, by which services of different persons working against the posts duly sanctioned by the State Government at the School were confirmed in the pay scales as indicated against their names and amongst other persons, the names of the present petitioners also found place in the said office order and as such, they were shown to be working against their respective posts at the School (Annexure-10 to the writ petition).

10. One writ petition bearing C.W.J.C. No. 9851/2009 was preferred by an Assistant Teacher, working at the school which was disposed of by an order dated 30.08.2011 passed by this Hon'ble Court and while allowing the said writ application (Annexure-11 to the writ petition), the District Education Officer, Jehanabad, was directed to make payment of



arrears of salary with effect from the date of the appointment of the petitioner of the said case as well as current salary on month-to-month basis within a period of eight weeks from the date of production/communication of the said order and it was furthermore directed that the current salary in favour of the petitioner of the said case was to be paid without any objection by the concerned authorities. The present petitioners alongwith other similarly situated persons also moved this Hon'ble Court in one C.W.J.C. No. 2484/2012, *inter alia*, with a prayer for a direction upon the concerned authorities under the Education Department of the State Government to take steps towards making payment of salary in their favour, which had not been paid on account of non-preparation of the salary bills by the then headmaster of the School; and as such, by an order dated 08.02.2012 passed by this Hon'ble Court, the said C.W.J.C. No. 2484/2012 was disposed of with a direction upon the District Education Officer, Jehanabad, to make an enquiry as to whether the headmaster of the School was adopting pick and choose policy in preparation of bills and as such, the petitioners of the said case were also granted liberty to point out to the District Education Officer, Jehanabad, that they had been discriminated against by the headmaster of the School and were left out; and



accordingly, the District Education Officer, Jehanabad was directed to make necessary enquiry and issue orders to the headmaster of the School for taking corrective action for release of salary of all the teaching and non-teaching employees of the School on uniform basis, (Annexure-12 to the writ petition).

11. Under the aforesaid facts and circumstances, the petitioners submitted a representation before the District Education Officer, Jehanabad requesting therein that necessary steps be taken towards conducting an enquiry into the matter and making grants available in favour of the School so as to ensure payment of salary to the present petitioners and other persons working regularly in the services of the School but unfortunately, no action in the said respect was taken. Thereafter, the petitioners submitted a detailed representation dated 07.12.2013 before the Chairman, Bihar Sanskrit Education Board, Patna, and while stating various facts and circumstances relating to their cases, the petitioners requested the concerned authorities under the Bihar Sanskrit Education Board to take steps towards issuing necessary directions for ensuring payment of current salary along with arrears of salary in their favour. Pursuant to the order dated 30.08.2011 passed in C.W.J.C. No. 9851/2009 as mentioned in the foregoing



paragraph, a letter dated 21.06.2013 was issued by the concerned authorities under the Education Department of the State Government, by which District Education Officer, Jehanabad was directed to make payment of salary in favour of the petitioner of the said case, namely, Renu Kumari, was also working in the capacity of Assistant Teacher at the School and necessary grants were also made available in order to ensure payment of salary along with arrears of salary in favour of the said teacher (Annexure-14 to the writ petition).

12. The present petitioners are also similarly situated as the writ petitioner of C.W.J.C. No. 9851/2011, although by the aforesaid letter dated 21.06.2013 issued by the concerned authorities in the Education Department of the State Government, necessary directions were issued for making payment of salary in favour of the writ petitioner of the said case, unfortunately, the present petitioners were not extended the said benefits without there being any just and valid reason in support thereof. An order dated 02.04.2014 was issued by the concerned authorities under the Bihar Sanskrit Education Board, Patna, by which in furtherance of the directions passed by this Hon'ble Court in one C.W.J.C. No. 9626/2012 filed by two Assistant Teachers similarly situated as the present petitioners



working at the School, it was directed that necessary payment of salary in their favour be made in accordance with law (Annexure-15 to the writ petition).

13. Pursuant to the directions passed by this Hon'ble Court in different writ applications, the concerned respondent authorities have already directed for making payment of salary in favour of Assistant Teachers working at the School similarly situated as the present petitioners but unfortunately, no decision with respect to making payment of salary in favour of the present petitioners was taken by the concerned respondent authorities. One Civil Review No. 56/2013 was preferred by the respondent State of Bihar and its authorities before this Hon'ble Court against the order dated 30.08.2011 passed in C.W.J.C. No. 9851/2009, with a prayer for recalling the order dated 30.08.2011 passed in the said case on the ground that the supplementary counter affidavit filed on behalf of the respondent State in the said case had escaped notice of this Hon'ble Court and as such, by an order dated 25.04.2014 passed by this Hon'ble Court, the said Civil Review No. 56/2013 was allowed and accordingly, the order dated 30.08.2011 passed in C.W.J.C. No. 9851/2009 as aforesaid was recalled and the writ application was restored to its original file



to be placed before an appropriate bench for fresh hearing (Annexure-16 to the writ petition).

14. Pursuant to directions passed by this Hon'ble Court in one C.W.J.C. No. 265/2014 preferred by another Assistant Teacher at the School, an order dated 21.10.2014 was issued by the concerned authorities under the Bihar Sanskrit Education Board, Patna, by which while taking note of the various facts and circumstances relating to the case of the said Assistant Teacher and while considering her services to be approved in terms of the provisions contained under rule 3(8) of Bihar State Non-government Sanskrit High School Service Conditions Rules, 1976, it was directed that payment of salary in favour of the said person be made upon allotment of necessary funds by the State Government (Annexure-17 to the writ petition). By different orders passed by the concerned authorities under the Bihar Sanskrit Education Board, Patna, necessary orders were passed with respect to making payment of salary in favour of different similarly situated persons as the present petitioners but unfortunately, no action in relation to the present petitioners was taken. The aforesaid order dated 25.04.2014 passed in Civil Review No. 56/2013, the writ petitioner of C.W.J.C. No. 9851/2009, namely Smt. Renu



Kumari, preferred L.P.A. No. 1054/2014 before this Hon'ble Court and by an order and judgment dated 07.07.2015 passed by this Hon'ble Court, the said L.P.A. No. 1045/2014 was allowed (Annexure-18 to the writ petition) and the order dated 25.04.2014 passed in Civil Review No. 56/2013 was set aside and the concerned authorities in the Education Department of the State Government as well as Bihar Sanskrit Education Board, Patna, were directed to make payment of arrears of salary in favour of the appellant of the said case within a period of three months from the date of passing of the said order and it was furthermore directed that payment of emoluments in her favour would be continued.

15. Subsequently, purportedly in furtherance of the order dated 08.02.2012 passed in C.W.J.C. No. 2484/2012 preferred by the present petitioners alongwith other similarly situated persons before this Hon'ble Court, an order dated 12.12.2014 was passed by the District Education Officer, Jehanabad, by which while taking note of the various facts and circumstances relating to the School where the present petitioners are working as well as the claims of the petitioners, on the basis of the inspection of the School, it was directed that necessary demands be made for allotment of funds at the School



from the concerned authorities under the Education Department of the State Government so that payment of salary in favour of the teachers and non-teaching employees at the School could be made (said Office order dated 01.12.2014, Annexure-19).

16. Thereafter, a letter dated 02.12.2014 was issued by the concerned authorities in the office of District Education Officer, Jehanabad, by which the Director (Secondary Education), Bihar, Patna, was requested to take steps towards allotment of necessary funds for making payment of salary in favour of the present petitioners and other similarly situated persons who were applicants in C.W.J.C. No. 2484/2012 and C.W.J.C. No. 2526/2012. Despite, submission of the aforesaid letter dated 02.12.2014 (Annexure-20 to the writ petition) by the concerned authorities in the office of the District Education Officer, Jehanabad, unfortunately, no action in the said respect was taken and under these facts and circumstances, the present petitioners alongwith other similarly situated persons submitted a detailed representation dated 09.12.2014 before the Chairman, Bihar Sanskrit Education Board, Patna and while stating the various facts and circumstances relating to their cases requested that necessary steps be taken towards allocating necessary funds in favour of the School so that payment of salary in favour of



the present petitioners and other similarly situated persons could be made. Thereafter, different letters were issued by the concerned authorities in the office of District Magistrate, Jehanabad, by which the concerned authorities under the Education Department of the State Government were requested to take necessary steps towards allocating necessary fund for payment of salary to the employees of the School in furtherance of the directions passed by this Hon'ble Court in C.W.J.C. No. 2484/2012 (Annexure-22 series to writ petition).

17. The present petitioners alongwith other similarly situated persons were constrained to move this Hon'ble Court in M.J.C. No. 3822/2013, with a prayer for initiating contempt of court proceedings against the opposite parties for the willful and deliberate disobedience on their part of the order dated 08.02.2012 passed in C.W.J.C. No. 2484/2012 and as such, by an order dated 24.08.2015 passed by this Hon'ble Court, the said M.J.C. No. 3822/2013 (Annexure-23 to the writ petition) was disposed of with a direction that the Principal Secretary of the Education Department of the State Government would examine the cases of the petitioners of the said case and other teachers and if upon an enquiry it was found that the School, in question was a legally constituted School, and the



persons in question were validly appointed teachers, the Principal Secretary was to pass necessary orders and as such, it was observed that the entire process of the enquiry was to be concluded within a period of six months from the date of receipt/production of a copy of the said order passed in M.J.C. No. 3822/2013.

18. On the other hand, certain controversies had been sought to be raised with respect to entitlement of the teachers working at the School for payment of salary in their favour as also with respect to the legality of recognition of the School and on the other hand pursuant to the directions passed by this Hon'ble Court by its order dated 07.07.2015 in L.P.A. No. 1045/2014, a letter dated 13.01.2016 (Annexure-16) was issued by the concerned authorities under the Education Department of the State Government, by which the District Education Officer, Jehanabad, was directed to make payment of salary in favour of the aforesaid Smt. Renu Kumari also working against the post of Assistant Teacher at the School in furtherance of the directions passed by this Hon'ble Court. In terms of the order dated 24.08.2015 passed in M.J.C. No. 3822/2013 as aforesaid, an enquiry was conducted at the School and while taking into account the various aspects relating to the



School, a report dated 29.02.2016 (Annexure-25) was submitted by the committee so constituted for conducting the said enquiry, by which while furnishing report in relation to different aspects relating to the School, it was recommended that the validity of approval of appointment of different teachers working at the School be ascertained from the concerned authorities under the Bihar Sanskrit Education Board, Patna. Thereafter, a copy of the aforesaid report was furnished to the concerned authorities under the Education Department of the State Government for their consideration and necessary action. In the meantime, by a letter dated 12.04.2016 issued from the office of the District Education Officer, Jehanabad, (Annexure-26) details relating to revision of salary and payment of salary in favour of three Assistant Teachers working at the School in furtherance of the aforesaid orders passed by this Hon'ble Court in different cases, were furnished to the concerned authorities under the Education Department of the State Government for necessary action.

19. That in the manner as aforesaid it would manifest that although action was taken with respect to making payment of salary, revision of salary and payment of arrears of salary in favour of other similarly situated teachers working at the School, no action with respect to making payment of salary



in favour of the present petitioners was taken by the concerned authorities under the Education Department of the State Government. Subsequently, a letter dated 17.01.2017 (Annexure-27) was issued by the office of the District Education Officer, Jehanabad, by which, the Director (Secondary Education) Education Department, Bihar, Patna was requested to take steps towards making allotment of necessary grants in favour of the School so as to ensure payment of salary in favour of the employees working at the School and as such, in the said letter, reference to the order passed by this Hon'ble Court in the C.W.J.C. No. 2484/2012 was also made.

20. When ICR reforms were not being issued in favour of the School, one C.W.J.C. No. 3306/2017 was filed before this Hon'ble Court by the Headmaster of the School, seeking direction upon the concerned authorities to issue ICR forms in favour of the School so that the students admitted at the School could fill up their forms for appearing in the Madhyama Examination, 2017 and as such, by an order dated 03.04.2017 passed by this Hon'ble Court, the said C.W.J.C. No. 3306/2017 was disposed of with a direction upon the concerned authorities to issue ICR forms in favour of the School taking note of the fact that during previous years, ICR forms had been issued to



the School. Thereafter, a letter dated 19.04.2017 was issued by the Bihar Education Board, Patna, by which in furtherance of the directions passed by this Hon'ble Court, permission for of training ICR forms in favour of the School was granted. He further submits that there is no dispute with respect to recognition of the School and as such, although other similarly situated teachers working at the School have been made payment of salary from the grants made available by the State Government, unfortunately, no action has been taken in relation to making payment of salary in favour of the present petitioners and under these facts and circumstances, the petitioners alongwith other similarly situated persons filed a representation dated 26.06.2018 before the Education Department of the State Government as well as Bihar Sanskrit Education Board, Patna, requesting therein that necessary steps be taken towards making payment of salary in favour of the present petitioners. Subsequently, an order dated 29.06.2018 was passed by the concerned authorities of the Education Department, Government of Bihar, Patna, by which while taking note of the various facts and circumstances relating to the establishment and recognition of the School, it was categorically directed that ICR forms be issued in favour of the School in order to enable



the students of the School to participate in the examination relating to the academic session 2017-18.

21. An inspection report dated 13.09.2018 was submitted by the District Programme Officer, Jehanabad, by which it is stated that the present petitioners alongwith other similarly situated persons, who were working at the School and other requirements were also fulfilled by the School, it was indicated that the approval of the appointment of the present petitioners and other persons whose names found place in the said inspection report were unavailable and as such, after receipt of approval from the Board, steps for making payment of salary could be taken in favour of the present petitioners and other similarly situated persons working at the School. By different orders and letters issued by the concerned authorities under the Bihar Sanskrit Education Board, Patna, necessary directions had been issued for making payment of salary in favour of the teachers and non-teaching employees working at the School, in the aforesaid inspection report dated 13.09.2018, blatantly incorrect facts had been stated. All of a sudden, the impugned order dated 26.10.2018 was passed by the Additional Chief Secretary, Education Department, Bihar, Patna, by which on patently incorrect facts, the claim of the present petitioners were



rejected for payment of salary and furthermore, a direction was also passed for filing a similar review petition before this Hon'ble Court against such teachers who had been paid their salaries on the basis of orders passed by this Hon'ble Court from time to time; and in sum and substance, in the aforesaid order dated 26.10.2018, it had been concluded that the School in question was not a recognized School and therefore, the teachers working at the said School were not entitled for being extended the benefits of payment of salary, etc. from the grants made available by the State Government.

22. He further submits that the action on the part of the concerned respondent authorities under the Education Department of the State Government in passing the aforesaid order dated 26.10.2018 is highly arbitrary, unreasonable and in blatant disregard and violation of articles 14 & 21 of the Constitution of India as on the basis of necessary permission having been granted by the concerned authorities under the Bihar Sanskrit Education Board, Patna the School was granted permanent recognition and also the appointments of different persons including the present petitioners against their respective posts at the School had been approved. The petitioners submitted a detailed representation dated 20.09.2018 before the



concerned authorities in the Education Department of the State Government but unfortunately, no action in the said respect has been taken till date.

23. Learned counsel for the petitioners further submits that in terms of the provisions contained under rule 8 of chapter 3 of Bihar Non-government Sanskrit High School (Service Conditions) Rules, 1976, the services of the present petitioners had been declared to be approved by office orders dated 15.11.2010 and 04.12.2010 issued by the concerned authorities at the School but even without taking note of the provisions contained under the said Rules, it has been declared that the appointments of the present petitioners had not been approved in accordance with law by the concerned authorities under the Bihar Sanskrit Education Board, Patna. The petitioners have been continuously discharging the duties against their respective posts of teachers and non-teaching employees at the School, unfortunately they have not been paid their salaries, which is clearly impermissible in the eyes of law and the same being in blatant disregard and violation of Articles 21 and 23 of the Constitution of India. Several favourable reports having been submitted by the concerned authorities in the office of District Education Officer as also orders passed by



the concerned authorities under the Bihar Sanskrit Education Board, Patna with respect to the entitlement of the present petitioners and other similarly situated persons for being paid the salary unfortunately, by the impugned order dated 26.10.2018 passed by the concerned authorities under the Education Department of the State Government, their claims have been rejected in the most illegal and arbitrary manner.

24. He further submits that a report submitted by a three-member committee has been brought on record (Annexure-25 of the writ petition) and as such, by way of Annexure-33 to the writ petition, a report dated 30.09.2018 bearing memo no. 426 submitted by the District Programme Officer (Planning & Accounts) Jehanabad has been brought on record, which is a report submitted by the District Programme Officer (Planning & Accounts) Jehanabad pursuant to the directives issued by the District Magistrate, Jehanabad, on the instructions of the Principal Secretary, Education Department, Bihar, Patna, and from bare perusal of the said report it would clearly demonstrate that the contents of the report dated 29.02.2016 which had been forwarded to the concerned authorities under the Education Department of the State Government by the District Magistrate, Jehanabad, by his letter



dated 03.03.2016 was clearly negated by the subsequent report and as such in the entire counter affidavit the concerned authorities have not examined the said aspect of the matter, an attempt has been made to mislead this Hon'ble Court by stating facts of a report which had already been negated by the concerned authorities under the State Government on their own. In one Appeal No. 11/2018 (Annexure-31 to the writ petition), reference to a letter dated 10.09.2014 issued by the Secretary, Bihar Sanskrit Education Board, Patna has been made and as such, inter alia, it has been stated that the School in question could be extended the benefits of grant-in-aid Sanskrit schools and accordingly, necessary allocation of funds in favour of the School could be made and subsequently, the same authority, namely the Secretary of Bihar Sanskrit Education Board had submitted the report dated 08.05.2017 (Annexure-1 to the counter affidavit under reply), in effect, stating that there was no record available in the Board with respect to the School, in question and these facts manifestly demonstrate the highhandedness and illegal disposition on the part of the concerned respondent authorities; and it may further be noted here at this stage that it was the same person, namely, Sri Milind Kumar Sinha, who was holding the post of Secretary of Bihar



Sanskrit Education Board at the time when the aforesaid letter dated 10.09.2014 was issued and it was the same individual who had issued the letter dated 08.05.2017 bearing letter no. 661 as contained in Annexure-1 to the counter affidavit under reply, which is devoid of any merit whatsoever in the eyes of law.

25. Learned counsel for the petitioners further submits that the school was initially established in the year, 1975 in terms of the provisions contained under the resolution no. 4124 dated 11/08/1956 laying down provisions with respect to constitution, nature and functions of Bihar Sanskrit Siksha Association which during the relevant time was regulatory/controlling body of the State Government for regulation of Sanskrit education and examination in the State of Bihar. The provisions contained under Clause 15 of the aforesaid resolution no. 4124 dated 11/08/1956 contained detailed provisions with respect to recognition of Sanskrit institution and award of grant in aid which, inter alia, contained general conditions of recognition and as such, the reason assigned in the impugned order with respect to fulfilment of requirement of infrastructure, land, etc purportedly being not fulfilled by the College on the basis of which, the claim of the petitioners for being made payment of salary has been rejected



is completely misconceived and devoid of any basis.

26. On the basis of the provisions contained under the aforesaid resolution no. 4124 dated 11.08.1956, the school had initially been established and while taking note of the provisions contained under the said resolution no. 4124 dated 11.08.1956, inter alia, with respect to the matter of grant of recognition of Sanskrit institution or grant in aid, by an office order dated 05.01.1976 bearing memo no. 53 issued by the concerned authorities under the Bihar Sanskrit Education Board, Patna, the School was granted temporary recognition from 01.04.1975 to 31.03.1976 and thereafter, by different letters issued by the concerned authorities, different posts of teachers were also sanctioned in favour of the College and subsequently, by an office order dated 01.05.1978 bearing memo no. 2481, the School was granted permanent recognition as would be manifest from a perusal of the aforesaid documents contained in Annexure-1, 2 and 3 to the main writ petition. He further submits that an order and judgment dated 12/05/2010 passed in LPA No. 366/2009 by a Division Bench of this Hon'ble Court in which case a similar question of law was involved and as such, this Hon'ble Court having been taken note of the various aspects of the matter had held that in view of the resolution of the State



Government laying down the terms and conditions of the recognition of the year, 1956 and the recognition was given to the concerned school which was the subject matter of the said LPA No. 366/2009, in the year 1960 itself, there being no requirement for having land registered in the name of school, the same could not form basis of cancelling/withdrawing for recognition of the school.

27. A counter affidavit has been filed on behalf of the respondents no. 2 and 4 in which it has been asserted that the school in question was granted recognition for the period 01.04.1975 to 31.03.1976 and, subsequently, permanent recognition was granted w.e.f. 01.04.1978 by the concerned authorities. It transpires that the said writ application being CWJC No. 9851 of 2009 was finally heard and disposed on 30.08.2011 by this Hon'ble court with a direction to the District Education officer, Jahanabad, to ensure payment of salary. In compliance of the order dated 07.07.2015 passed in LPA No. 1045 of 2014 petitioner (respondent herein) was paid a total sum the of Rs. 9,14,093/- (Nine lacs fourteen thousand ninety three only) for the period 01.04.1996 to 31.08.2013 and similarly Smt. Kumari Chanchala Sharma and Smt. Annapurna Kumari said to be two teachers of primary unit were also paid a sum of



3,29,240/- (Three lacs twenty nine thousand two hundred forty only) for the period 07.05.2009 to 30.09.2014 and 2,73,120/- (Two lacs Seventy three thousand one hundred twenty only) for the period 16.03.2010 to 30.09.2014 respectively. Likewise total 9 teachers had filed CWJC No. 2484 of 2012 (Kamlesh Sharma & Ors) Vs. The State of Bihar & Ors.) claiming themselves duly appointed and approved teachers of school in question and they had sought relief for ensure payment of salary. That the said writ application was finally heard and disposed of on 08.02.2012 with a direction to the District Education Officer, Jehanabad, to issue necessary orders to the headmaster of the School to endure payment to the teaching and non-teaching staffs on uniform basis. The writ petitioner of CWJC No. 2484 of 2012 preferred a contempt being MJC No. 3822 initiation of contempt proceeding for non compliance of the order dated application of 2013 for 08.02.2012 passed in the said writ application. This Hon'ble court after hearing the said contempt application was pleased to dispose of the same on 24.08.2015 with the following orders:-

“In view of the conflicting situation, let the Principal Secretary, Education Department, Government of Bihar, Patna would examine the case of the petitioner and other teaches. On enquiry if it is found that the school in question is legally constituted school and they are validly appointed teachers, SO much SO the headmaster of the School is preparing salary bill selectively, the principal Secretary will



pass necessary orders. The whole process of the enquiry will be completed within a period of six months from the dates of receipt/ production of a copy of the order"

28. Learned counsel for the respondents no. 2 and 4 submits that in compliance of the order passed by this Hon'ble Court on 24.08.2015 in MJC No. 3822 of 2013, the Joint Secretary, Education Department, Government of Bihar, Patna, vide letter no.24 dated 13.01.2016 requested the District Magistrate, Jehanabad, to conduct enquiry in respect of the present status of the school in question and to submit report. He further submits that the Secretary of the Board vide his letter no. 516 dated 04.04.2017 requested the Secretary of the Managing Committee of the School to submit the original documents in respect of the following details:-

"A. Establishment of school in question.

B. Managing Committee time of establishment of the at the school.

C. The original letter copy issued of the to the school.

D. Detailed description working pertaining Secretary, Headmaster of the School including their names, period of working yearwise.

E. Procedure adopted appointment school, Decision/Minutes of the Managing Committee in respect of appointment, copy of letter of approval of employees of school by the Board e.g. vide letter 542 dated 13.07.1993 letter no. 1442 dated 06.04.2014 letter no. 4218 dated 7092 no. 01.04.2011 letter dated 31.12.2013. Headmaster failed to produce those documents by saying that the has same been no. But the submitted in the Board. "



29. Learned counsel for the respondents no. 2 and 4 further submits that the Secretary of the Board has specifically pointed out that the services of the Smt. Renu Kumari, Kumari Chanchala Sharma have not been approved there is no such record available in the Board nor the school in question could be able to produce such documents. In fact Smt. Renu Kumari Kumari and Kuamri Chanchala Sharma on the basis of fake documents have been able to show approval service and on that basis they have been able to get payment of salary, in the said incident, the collusive role of some of the employees of the Board has appeared and after identifying them action against them are being taken. It would be most pertinent to state at this juncture that the called Managing Committee School through its Secretary, Surendra Kumar Sunil, filed application in this Hon'ble Court being CWJC No. 1469 of 2017. The said case was heard and interim order dated 11.05.2017 was passed by this Hon'ble Court with a direction to the writ petitioners to file a representation before the respondent no. 4 namely the Special Director, Secondary Education, who will take appropriate decision in accordance with law and pleadings submitted by the parties.

30. Learned counsel for the respondents no. 2 and 4



further submits that the Special Director compliance of the interim order dated 11.05.2017 passed in CWJC No. 1469 of 2017 issued notices to all the respective parties including these petitioners to appear before him along with relevant documents so that their cases may be considered. The Special Director directed the writ petitioners to produce the original documents in support their case i.e. letter of recognition of the school in question, approval of teaching and non teaching staffs, mode of selection etc. In view of that, the writ petitioners appeared through their learned advocates on 12.06.2017, 30.06.2017 but they did not produce the relevant documents in support of their claim. On 17.07.2017, the learned counsel for the writ petitioners produce relevant documents on the next date fixed i.e. on 03.08.2017. He further submits that in course hearing the Secretary of the Board produced the issue register of the Board from which it transpired that the letter no. 395 dated 27.05.1993 was never issued by the Board on the basis of which the writ petitioners claimed that their services were approved by the Board. In fact letter no. 395 dated 09.06.1993 was issued to the Brach Manger, Punjab National renewal Bank, Yarpur, Patna for removal of old bank drafts. He further submits that surprisingly on the next date i.e. on 03.08.2017 counsel for the petitioners



appeared and produced the order dated 31.07.2017 by which it transpired that CWJC No. 1469 of 2017 has been dismissed as withdrawn by the writ petitioners.

31. Learned counsel for the respondents no. 2 and 4 further submits that in compliance of the order dated 24.08.2015 passed in MJC No. 3822 of 2013, the Additional Chief Secretary, Education Department, Government of Bihar, Patna considered the case of the petitioners taking into consideration the relevant documents including the enquiry report of District Magistrate, Jehanabad, dated 03.03.2016 letter no. 363/Go as well as report of the Secretary of the Board dated 08.05.2017 contained in Memo No. 661 and after considering all the facts and circumstances as well as pleadings of the parties, he has rejected the claim of the petitioners for payment of salary by passing reasoned order and he has further ordered to take steps for filing Civil Review application in this Hon'ble Court bringing on record the latest developments vide order dated 26.10.2018 contained in Memo no. 1377. After disclosure of malpractices as well as game of hide seek by petitioners the Additional Secretary, Education Department, Government of Bihar, Patna has passed well considered reasoned order and accordingly he has taken a decision to prefer Civil Review application in this



Hon'ble Court in LPA No. 1045 of 2014 for which necessary steps have already been going on.

32. Learned counsel for the respondents no. 5 to 7 submits that the annexure-5 of the writ application shows that, inspection of the school was made by the then Assistant Director of Education Department on dated 04.02.1981 and as per the inspection report enter- alia total one acre twelve decimal land is available with the said school. But on the other hand as per the inspection report of District Magistrate, Jehanabad, which was submitted vide its letter No. 363, dated 03.03.2016 to the Education Department, shows that, in fact only 12 (twelve) decimal land is available with the said school and said land has been registered in the year 2004. Therefore, this fact shows that, the school does not fulfills the recognition conditions as laid down in the recognition rule. In the year 1989 total 429 Sanskrit Schools were taken over by the Government, w.e.f. 18.12.1989 vide ordinance No. 32 of 1989 and said ordinance lapsed w.e.f. 30.04.1992 and the petitioners' school could not find place in the taken over 429 Sanskrit Schools lists, because, the school was not in the category of Recognized Sanskrit School. Before 1989, total 223 Sanskrit schools were recognized by the Government w.e.f. 01.01.1985. But, the petitioner school also



could not find place in the said recognized Sanskrit school list.

33. Learned counsel for the respondent no. 4 submits that petitioners have been playing games to mislead this Hon'ble Court although the School in question does not fulfill the requisite criteria as neither the said School granted services has been nor recognition of the teaching/Non- teaching staffs have been approved by the Board. The said School latches the necessary infrastructure so that its case may be considered in accordance with law.

34. Having considered the submissions advanced on behalf of the parties and from perusal of the records, it is admitted fact that petitioners have been appointed after following due procedure of appointment. The Special Secretary of the Education Department also issue an order bearing Memo no. 58 dated 29.06.2018 in Appeal No. 11 of 2018 for issuance of ICR forms of the school as the school is recognized. The school was granted temporary recognition on 05.01.1976 w.e.f. 01.04.1975 to 31.03.1976. The school was granted permanent recognition on 01.05.1978 w.e.f. 01.04.1978 by the Bihar Sanskrit Education Council. The Vankatesh Sanskrit Primary-cum-High School Vankateshwar Nagar, Raja Bazar, Jehanabad, was established on 01.01.1976 and at the time there was



land/own building of school not required for the purpose of granting recognition. LPA No. 366 of 2009 judgment dated 12.05.2010, (Kalika Prasad Singh vs. The State of Bihar & Ors.). The recognition of the school was not in dispute and considering this facts several orders have been passed by this Hon'ble Court and the Bihar Sanskrit Education Board also. Five-Six teachers of the school are getting salary appointed like these petitioners by the orders of this Hon'ble Court or by the order of Bihar Sanskrit Education Board but these petitioners have been deprived from salary by the respondent authorities. The report dated 29.02.2016 reveals that there is 1 acre and 12 decimal land in the name of the school. The said report has been given by three men committee and the petitioners are working in the school like other teachers who are getting salary. A fresh managing committee of the school was constituted after completion of tenure of earlier committee and the Secretary of the Sanskrit Education Board granted approval on 01.03.2024 vide memo no. 1539 as per Rule. The respondent, Director Secondary Education has asked show cause to the Secretary of the Board for granting approval of the above said committee in very arbitrary manner only to pressurize him to cancel the approval order which is glaring example of colorable exercise of



power. On the basis of the order dated 24.08.2015 passed in MJC No. 3822 of 2013 the Additional Chief Secretary of Education Department issued the impugned order contained in memo no. 1377 dated 26.10.2018 without considering the report of the District Magistrate, Jehanabad, dated 14.09.2018 rejecting the claim for payment of salary to the petitioners in very arbitrary manner. It is also admitted fact that a number of teacher at the school are getting their salary on a regular basis, but these petitioners are deprived of the salary by the respondent authorities is highly arbitrary, unreasonable and in-blant disregard and violation of Articles 14, 16, 21 and 23 of the Constitution of India.

35. In this facts and circumstances of the case, the Memo no. 1377 dated 26.10.2018 (Annexure-34 of the writ petition) is hereby quashed and the concerned authority is directed to take steps towards ensuring payment of salary in favour of the petitioners who were continuously working against their respective posts as Assistant Teachers/Staffs at the school by allocating the necessary fund in favour of the school in a similar manner as other similarly situated persons working at the school are being made payment of their regular salaries on monthly basis.



36. With the aforesaid observation and direction,
the present writ petitions stand allowed.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2024
Transmission Date	NA

