

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1988 of 2024

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1. Sohan Kumar son of Sri Ram Chandra Prasad Resident of Village Bandhara, P.O. Ghosaut, P.S. Siwaipatti, District Muzaffarpur
 2. Geeta Kumari @ Gita Kumari Wife of Sri Rajesh Kumar Resident of Turki Khararu, P.O.-Turki Khararu, P.S.-Minapur, District-Muzaffarpur, Presently Working as Block Teacher in Govt. Upgraded Middle School, Lautan, Block-Minapur, Muzaffarpur.
 3. Mahesh Sah Son of Sri Shivji Sah Resident of Village-Gauspur Narvara, P.S.-Tariyani, District-Muzaffarpur, Presently Working as Block Teacher in Govt. Upgraded Middle School, Lautan, Block-Minapur, Muzaffarpur.
 4. Rajeev Kumar Son of Late Bharat Rai Resident of Vilalge-Punarwara, P.O.-Chak Shambhu, P.S.-Runni Saidpur, District-Sitamarhi, Presently Working as Block Teacher in Govt. Upgraded Middle School, Lautan, Block-Minapur, Muzaffarpur.
 5. Bharat Kumar Son of Sri Shivnandan Das Resident of Village- Mahmudpur, P.O.-Jhapaha, P.S.-Ahiyapur, District-Muzaffarpur, Presently Working as Block Teacher in Govt. Middle School, Lautan, Block-Minapur, Muzaffarpur.
 6. Manjay Kumar Son of Sri Suresh Singh Resident of Village and P.O.-Bishunpur Pandey, P.S.-Minapur, District-Muzaffarpur, Presently Working as Block Teacher in Govt. Middle School, Gosaipur, Block-Minapur, Muzaffarpur.
... .. Petitioners

Versus

1. The State of Bihar through the Director, Primary Education, Govt. of Bihar, New Secretariat, Patna.
2. The Distirct Education Officer, Muzaffarpur.
3. The Distirct Programme Officer (Establishment), Muzaffarpur.
4. The Block Development Officer, Minapur, P.O. and P.S.-Minapur, District-Muzaffarpur.
5. The Block Education Officer, Minapur, P.O. and P.S.-Minapur, District-Muzaffarpur.
... .. Respondents

Appearance :

For the Petitioners	:	Mr.Bipin Bihari Singh, Advocate Mr. Shyama Kant Singh, Advocate
For the Respondents	:	Mr.Braj Bhushan Mishra, AC to AAG 9

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 17-10-2024

Writ petition has been filed for directing the concerned authorities to make payment of wages/salary to the petitioners from June, 2016 to till date for their continuous works against the respective posts.



2. Learned counsel for the petitioners submits that after joining in May, 2015, petitioners were getting salary on regular basis till May, 2016 but the authorities have not paid them salary from June, 2016 till date though they rendered continuous work. Grievance of these petitioners is that they have not been paid their salary without any valid and reasonable ground only on the apprehension of supplying forged and fabricated academic certificates, despite the fact that they are working continuously against their respective posts. Learned counsel further submits that the issue regarding non-payment of salary with respect to other similarly situated persons, was subjected to judicial scrutiny before this Court in C.W.J.C.No. 7648/2020. In the said case, on the direction of the Court, the Additional Chief Secretary, Education Department issued letter dated 8.7.2022 with clear direction not to stop or withhold salaries of teachers in any condition/circumstances. Learned counsel submits that merely on account of any doubt relating to educational qualifications of the teachers, salary of a teacher ought not be stopped and the course as required to be followed under the rules may be adopted for the said purpose. Any teacher, or for that matter any employee, who is performing his duty, is entitled to receive salary for the period he is on duty. Even otherwise, coming to deferment of part of salary,



the part of salary payable to an employee cannot be deferred to any extent, except authorized by law. In support of the contention, learned counsel has taken assistance of the decision of the Hon'ble Supreme Court in case of **Man Singh Vs. State of U.P.** reported in **2022 Live Law SC 341**. While crystallizing the issue, Hon'ble Supreme Court has held that even if appointment was irregular, State has to pay salary for work done by the employee. The State cannot take any work from any employee without payment of any salary.

3. State has filed counter affidavit. It has been stated that on the order of Hon'ble Patna High Court, Certificate verification of Teachers is going on by the Vigilance authorities. Learned counsel for the State submits that these petitioners have not submitted their educational certificates to the Vigilance authorities for verification which raises bona fide doubt on the credential of their certificates on the strength of which they have secured service of Panchayat teacher. Learned counsel refers to paragraph 10 of the counter affidavit wherein it has been stated that as per Clause 14 of Bihar Panchayat Elementary Teacher (employment and service condition) Rule 2012 (amended rules 2014 as amended), it will be the responsibility of the Pdadhikari (i.e. Block Development Officer in case of Block Teacher and



Panchayat Secretary Panchayat Teacher) in case of Niyojan to get certificate verified within time, otherwise they themselves will be responsible for any illegal payments to teachers employed on forged/fake certificates. In this regard, District Programme Officer (Establishment) Muzaffarpur (respondent no.3) issued the letter vide memo no. 7650 dated 13.08.2024 to the Block Development Officer-cum- Secretary Block Teacher Employment unit -cum- Executive officer Panchayat Samiti, Minapur, Muzaffarpur (respondent no.4) to get the certificate of petitioners verified within time. A copy of the letter is contained in annexure A to the counter affidavit.

4. Heard learned counsel for the petitioners as well as learned counsel representing the State and perused the case law.

5. Withholding salary without a proper investigation or hearing the parties may violate due process rights. Salary should generally not be withheld solely based on suspicion without proper investigation and adherence to legal and organizational protocols. In a number of case, this Court has witnessed that non-payment of the salary of teachers has resulted in a huge litigation. On the other hand, clause 4C(1) of the Bihar State Litigation Policy provides for minimizing the litigation but State authorities are not deciding



case of Panchayat teachers which is frustrating the objective of the Litigation Policy.

6. This Court finds substance in the contention of learned counsel for the petitioners that mere non-submission of documents cannot be a ground for denying salary, on account of any doubt relating to educational qualifications of the teachers, salary of a teacher ought not be stopped and the course, as required to be followed under the rules, may be adopted for the said purpose. Any teacher, or for that matter any employee, who is performing his duty, is entitled to receive salary for the period he is on duty.

7. In view of the above discussions and the decision of the Hon’ble Supreme Court in case of **Man Singh (supra)**, this Court directs the State authorities to take steps for releasing salary to these petitioners for the period they are on duty, in accordance with law, within a period of eight weeks from the date of receipt/production of a copy of this order.

8. Writ petition stands allowed in the aforesaid terms.

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	N A
Uploading Date	
Transmission Date	

