

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11332 of 2021

Abhishek Kumar Son of Late Shobhakant Mishra Resident of Village-Simara,
P.O.-Sirkant, P.S.-Piar, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. Special Director, (Secretary Education), Department of Education, Government of Bihar, Patna.
4. Bihar Sanskrit Shikhsa Board, Back of Hardings Road, Patna through its Chairman.
5. Chairman, Bihar Sanskrit Shikhsa Board, Back of Hardings Road, Patna.
6. Secretary, Bihar Sanskrit Shikhsa Board, back of Hardings Road, Patna.
7. Managing Committee, Shri Krishna Sanskrit High School, Simara P.O.-Srikant, P.S.-Piyar, District-Muzaffarpur through its Secretary.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Durga Nand Jha, Adv.
For the Respondent/s : Mrs. Kumari Sujata Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 10-09-2024 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the B.S.S.B.

2. The present writ petition has been filed seeking the
following reliefs:

“(i) Issuance of a writ in the nature of Mandamus directing and commanding the Respondents 4 to 6 accord approval of the appointment of the petitioner pursuant to request submitted by the Secretary of the Managing Committee of the School namely Shri Krishna Sanskrit Madhyamik Vidyalaya, Simara District- Muzaffarpur (here-in-after to be referred to as School) and thereby the Respondents 1 to 3 be commanded to pay the due salary and other



allowances to petitioner from the date of his initial joining at the earliest.

(ii) Issuance of an appropriate declaration and holding that once after following all the procedures of appointment, the petitioner was selected by the duly constituted selection committee and Managing Committee decided to appoint the petitioner against the sanctioned post of clerk and matter was sent to Respondent Board, the authority of the Board was enjoined with law to accord approval of the said appointment and state authorities were obliged to release the necessary fund for payment of salary to petitioner from the date of his initial appointment particularly when the petitioner has been continuously working on his post from the date of his initial joining.

(iii) Issuance of an appropriate holding that since the school comes in the category of 429 recognized Sanskrit Schools having sanctioned strength of 7+2; 4 posts of Graduate teachers, one Incharge and one Headmaster as also one post of clerk and one post of Peon were advertised in Hindi daily News papers namely Rastriya Sahara and Dainik Aaj on the basis of approved draft Advertisement and after following the entire process of selection, the petitioner was appointed on permanent basis and Respondent Board was requested to grant approval on permanent basis, there appears no reason not to accord approval and to release the due salary of petitioner in spite of the fact that petitioner has been continuously working from the date of his initial appointment but without salary which amounts to begari.

(iv) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to.”

3. A counter affidavit has been filed on behalf of Bihar Sanskrit Shiksha Board in which it is stated that the Board has not sent any expert and rejected the claim of the petitioner vide memo no. 1542 dated 17.06.2022 (Annexure-B of the counter affidavit).



4. Learned counsel for the petitioner submits that he has just received the counter affidavit in year 2024 and, therefore, he has not challenged the memo no. 1542 dated 17.06.2022 (Annexure-B of the counter affidavit).

5. Considering the facts and circumstances of the case, the present writ application is disposed of with a liberty to the petitioner to file a fresh writ application for challenging the order memo no. 1542 dated 17.06.2022.

(Anjani Kumar Sharan, J)

anand/-

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