

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2997 of 2025

=====

Ram Binod Sharma Son of Awadh Singh, Resident of Village- Berra, Police
Station-Masaurhi, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education
Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer, Jehanabad.
4. The Programme Officer, (Establishment), Jehanabad.
5. The Block Education Officer, Jehanabad.
6. The Block Development Officer, Jehanabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Mishra, Advocate.
For the Respondent/s : Mr. Rajeev Shekhar, AC to GA-13.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

2 25-02-2025 Heard Mr. Ashok Kumar Mishra, learned counsel

appearing on behalf of the petitioner and Mr. Rajeev Shekhar,

learned AC to GA-13 for the State.

2. The petitioner in paragraph no. 1 of the present writ

petition has sought, *inter alia*, following relief(s), which is

reproduced hereinafter:-

*“(i) A writ in the nature of certiorari or any
other appropriate writ/order or direction for quashing of
Letter No. 2741 dated 20.11.2024 issued by the Respondent
No.3, the District Education Officer, Jehanabad, whereby
and where under the Salary of the petitioner has been*



ordered to stop and it was further directed to take appropriate action against him in accordance with law.

(ii) Any other appropriate writ/order or direction which your Lordships may deem fit and proper.”

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner is aggrieved by the action of the District Education Officer, Jehanabad, who vide order dated 20.11.2024 contained in Memo No. 667/Letter No. 2741, had directed the Block Education Officer to stop the salary of the petitioner and take appropriate action in accordance with law against the petitioner. Learned counsel further submits that the Block Development Officer cum Member Secretary, Block Teacher Employment Unit, Jehanabad vide order dated 29.05.2020 contained in Memo No. 689 had communicated to the District Programme Officer (Establishment), Jehanabad to comply with the direction contained in CWJC No. 4649/2020, 2749/2020 and 2723/2020, in view of which, suspension of the petitioner was revoked.

4. Learned counsel further submits that in absence of any proceeding pending against the petitioner, the petitioner is entitled for payment of due salary for the period he had worked. Hence, the Letter No. 2741/Memo No.667 dated 20.11.2024 issued by the District Education Officer, Jehanabad being against the mandate of Article 311 of the Constitution and Bihar



CCA Rules, 2005 is fit to be set aside and quashed.

5. *Per contra*, learned counsel appearing on behalf of the State submitted that the petitioner was found accused in vigilance case and the same is pending. However, he admits that from the records, it reveals that charge sheet has not been submitted till date, though the petitioner was found innocent in course of supervision which does not mean that the petitioner is innocent. Learned counsel further submitted that the present writ petition is pre-mature.

6. Heard the parties.

7. It is well settled principle of law that in absence of any departmental proceeding, petitioner is entitled for due salary. In the present case, suspension order of the petitioner was revoked and the same was communicated by the Block Development Officer cum Member Secretary, Block Teachers Employment Unit, Jehanabad vide order dated 29.05.2020 contained in Memo No. 689 to the District Programme Officer (Establishment), Jehanabad. A communication has been made by the District Education Officer on 20.11.2024 that those teachers against whom Vigilance Case is pending in connection with Jehanabad P.S. Case No. 757 of 2017, their payment of salary is required to be stopped.



8. The Apex Court in the case of ***M. Paul Anthony v. Bharat Gold Mines Ltd.***, reported in, ***(1999) 3 SCC 679*** has held that departmental proceeding and criminal proceeding are two different and independent proceeding. I find it gainful to reproduce paragraph no. 22 of the aforesaid judgment:-

“22. The conclusions which are deducible from various decisions of this Court referred to above are:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.*
- (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.*
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.*
- (iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.*
- (v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.”*

9. I find that in absence of any departmental



proceeding pending against the petitioner, the order dated 20.11.2024 contained in Memo No. 667 (Letter No.2741) is hereby set aside and quashed.

10. The matter is remitted back to the Director, Primary Education, Bihar to verify whether any disciplinary action has been initiated against the petitioner till date, in case no action has been taken, then he may take step to call for the service particulars of the petitioner from the District Programme Officer (Establishment), Jehanabad and release the due amount of salary to the petitioner forthwith from the date the petitioner has not been paid his due salary.

11. In case, disciplinary action has been taken against the petitioner in accordance with Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, then the petitioner may avail appropriate remedy in accordance with law.

12. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

