

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12865 of 2023

Md. Sabir son of Md. Ishaque, Resident of Village Mureth, P.S. Arer, District Madhubani at present posted as Assistant Teacher, Government of High School, Kauaha, P.S. Basopatti, District Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Principal Secretary, Department of Secondary Education, Government of Bihar, Patna.
2. Director, Secondary Education, Government of Bihar, Patna.
3. District Magistrate, Madhubani.
4. District Education Officer cum District Programme Officer, Madhubani.
5. Block Education Officer, Basopatti, District Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate Mr. Shiwam, Advocate
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw (GP-23)

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL ORDER

10 10-09-2025 Heard learned counsel for the parties.

2. This writ petition has been filed by the petitioner seeking a direction for payment of salary to the petitioner for the period from September, 2019 to March, 2020 and from March 2022 to till date for having worked as Principal In-Charge, Kauaha High School (Upgraded Middle School).

3. The state respondents, initially had contested the case by filing a counter affidavit and supplementary counter affidavit. From the supplementary counter affidavit filed by the respondent no.4 on 03.03.2025, it was noticed that the petitioner



has been paid salary from March, 2024 onward. However, neither in the counter affidavit nor in the supplementary counter affidavit filed, the petitioner's entitlement of salary for the period from September, 2019 to March, 2020 and from March, 2022 onward till the petitioner was paid his salary from March 2024 onward was discussed.

4. In that view of the matter, this Court vide order dated 24.04.2025 had directed the state respondents to file an affidavit regarding entitlement of the petitioner's salary for the period from September, 2019 to March, 2020 and from March 2022 to February, 2024.

5. Pursuant thereto, respondent no. 4 has filed a second supplementary counter affidavit on 11.08.2025, wherein, in paragraph nos. 3, 4 and 5, it has been stated as under:-

"3. That regarding the issue it is relevant to state that vide Office Order bearing no. 2384 dated 14.05.24 (Annexure-A of the Supp. Counter Affidavit) issued under the signature of DPO, Madhubani, it was decided in the meeting held on 07.03.24 in the office of DPO, Madhubani that any decision concerning the due salary of the petitioner shall be taken after he deposits the remaining misappropriated amount of RS 11,40,500/- in the Vidyalaya Shiksha Samiti bank account of the Government High School, Kauaha.



4. That pursuant to the office order dated 14.05.24, it has been communicated to the petitioner vide letter no 3281 dated 01.08.25 that as soon as the petitioner deposits the misappropriated amount of Rs 1140500/- in the account of Vidyalaya Shiksha Samiti, a his salary for the period from September 2019 to March 2020 and from March 2022 to February 2024, will be released.

5. That it is relevant to submit that the petitioner has also given an undertaking on affidavit dated 26.06.23 (Annexure-D of the Supp. Affidavit) regarding his liability to the tune of Rs 1640500 and return of remaining misappropriated amount i.e. Rs 1140500/. However, till date neither Rs 1140500/- has been returned nor any utilisation certificate has been submitted to that effect.”

6. On perusal of paragraph nos. 3, 4 and 5 of the second supplementary counter affidavit filed by the respondent no.4 as extracted hereinabove, it appears that state respondents have not denied the petitioner's entitlement of salary for the period mentioned above, but the same appears to have been denied on the ground that the petitioner has misappropriated a sum of ₹16,40,500/- from the account of Vidyalaya Shiksha Samittee, out of which, the petitioner is liable to refund an amount of ₹11,40,500/-. It further appears that the petitioner has also given an affidavit on 26.06.2023 to return ₹11,40,500/-.



7. The counter affidavit and supplementary counter affidavits filed by the State, however, does not indicate initiation of any departmental proceeding or lodging of an FIR against the petitioner for alleged misappropriation of the aforesaid money by the petitioner from the account of Vidyalaya Shiksha Samittee.

8. In the absence of any departmental proceeding initiated against the petitioner or lodging of FIR against the petitioner alleging misappropriation of money from the account of Vidyalaya Shiksha Samittee, the statement of respondent no.4 that the petitioner has misappropriated the aforesaid amount from the account of Vidyalaya Shiksha Samittee remains in the realm of allegation only and accordingly, on the basis of mere allegation against the petitioner, his salary for the period mentioned above for having worked as Principal In-Charge, Kauaha High School (Upgraded Middle School) could not have been withheld on the ground that the said salary of the petitioner for the aforesaid period shall be paid to him after he refunds the alleged misappropriated amount as stated hereinabove.

9. Under the circumstances, I am of the view that withholding of the petitioner's salary for the period mentioned above on mere allegation of misappropriation of aforesaid



amount without the said allegation having been proved in accordance with law, is unfair, unjustified and illegal.

10. Accordingly, the writ petition succeeds.

11. The state respondent is directed to pay the petitioner salary for the period from September, 2019 to March, 2020 and from March, 2022 to February, 2024 for having worked as Principal In-Charge, Kauaha High School (Upgraded Middle School) within a period of three months from the date of receipt/production of a copy of this order.

12. The writ petition stands disposed off with the above direction.

(Nani Tagia, J)

Amrendra/-

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