

80.5
18/11/13

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

C.W.J.C. No...../2013

Lalan Prasad Singh

Petitioner.

Vs.

The State of Bihar and others

Respondents.

Subject:- Promotion (School Service)

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

C.W.J.C. No...../2013

Lalan Prasad Singh --- Petitioner.

Vs.

The State of Bihar and others --- Respondents.

Synopsis

The present writ petition is being preferred for quashing the order as contained in Memo No. 01 dated 14.01.2013 passed and issued under the authority of the Secretary, proposed High School, Gamharia whereby and where under in terms of the different communications issued at the level of District Programme Officer Madhepura Sri Ashok Kumar was appointed against the post of the Headmaster in the said school without completing the process required under the law in addition to the resolution of the Managing Committee under which the decision rendered for the extended/renewal of the service for two years to the petitioner..

List of Dates

25.07.12:- The Secretary of the concerned school had issued the letter bearing letter no. 24 dated 25.7.12 addressed to the District Education Officer and District Programme Officer (Establishment), Secondary Education Madhepura.

06.08.12:- Narayan Mandal had preferred the C.W.J.C. No. 12353/2012 by assailing the validity of the order passed by the District Education Officer, Supaul with respect to the appointment of the Assistant Teacher in Janta High School as an Incharge Headmaster referring to the respondent no. 5 as the Secretary of the Managing Committee. The aforesaid writ petition was heard by Hon'ble High Court and ultimately the same was disposed of on 06.08.2012.

06.10.12:- The Secretary of the school had issued the letter bearing letter no. dated 06.10.2012 addressed to the District Education Officer, Madhepura.

07.01.13:- The Director, Secondary Education had issued the letter no. 4 legal dated 7.1.13 addressed to all the Regional Deputy Director of Education and all the District Education Officers with respect to the follow up the decision of the Hon'ble High Court passed in C.W.J.C. No. 12353/2012 in case of Narayan Mandal Vs. The State of Bihar and others.

24.01.13:- The Secretary to the concerned school had issued the Memo No. 01 dated 24.01.2013 intimating that in terms of the letter no. 3019 dated 27.12.2012 passed by the District Education Officer, Madhepura and the letter no. 05 dated 10th January 2013 passed and issued by the District Programme Officer (Estt.) Madhepura, the private respondent Sri Ashok Kumar Singh was appointed against the respective post and the Headmaster of the concerned school.

Hence, this writ application.

Handwritten signature/initials in the top right corner.

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

C.W.J.C. No...../2013

In the matter of an application
under Article 226 of the
Constitution of India;

And

In the matter of:-

Lalan Prasad Singh, S/O Late Rajendra Prasad Singh, resident of
village - Ekparha, P.O. - Aurahi Ekparha, P.S. - Gamharia,
District - Madhepura.

.....Petitioner.

Versus

1. The State of Bihar.
2. The District Education Officer, Madhepura.

3. The District Programme Officer (Estt.), Madhepura.
4. Sri Ashok Kumar, working as an Assistant Teacher in proposed High School Gamharia, P.O. – Gamharia, P.S. Gamharia, District – Madhepura.

.....Respondents.

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and her companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner above named;

Most Respectfully Sheweth:

1. That the present writ petition is being preferred for quashing the order as contained in Memo No. 01 dated 14.01.2013 passed and issued under the authority of the Secretary, proposed High School, Gamharia whereby and where under in terms of the different communications issued at the level of District Programme Officer Madhepura Sri Ashok Kumar

was appointed against the post of the Headmaster in the said school without completing the process required under the law in addition to the resolution of the Managing Committee under which the decision rendered for the extended/renewal of the service for two years to the petitioner and for the other necessary relief/reliefs on the basis of the facts and circumstances of the case as enumerated and stated hereinafter.

That it is stated that the substantial questions of law involved in the present writ petition are as follows:-

- (i) Whether the order and the direction issued by the District Education Officer and District Programme Officer (Estt.) Madhepura is without jurisdiction and otherwise bad?
- (ii) Whether the District Education Officer, Madhepura had committed the serious error of records while passing the order with respect to the appointment of the private respondent as the Headmaster when particularly the school in question is Proposed High

School and governed under the hand of Managing Committee in stead to State of Bihar and its functionaries?

(iii) Whether the District Education Officer, Madhepura has failed to appreciate that the Managing Committee of the school in terms of the law settled or enacted by the State Government had renewed/extended the service of the petitioner for the further period of two years and as such there is no vacancy against the post of Headmaster?

(iv) Whether the District Education Officer, Madhepura had failed to appreciate that by virtue of the law settled by the Hon'ble High Court in case of Narayan Mandal registered under C.W.J.C. No. 12353/2012. The order passed by them are without jurisdiction of the said facts are also accepted and admitted by way of the counter affidavit in the said writ proceeding?

- (v) Whether the District Education Officer, Madhepura had adopted the wrong approach and committed the wrong while ignoring the law settled by the Hon'ble High Court on the point of jurisdiction and as such the necessary legal interference is required in the present case?
- (vi) Whether the authorities have failed to appreciate that the law settled by the Hon'ble High Court on the basis of the counter affidavit filed by the State Government and taking its finality shall be passed through casually and the petitioner may be compelled to inter in the unnecessary litigation for the relief which are admitted and settled while disposing the writ proceeding?
- (vii) Whether the actions of the respondent authorities are malafide, arbitrary, without jurisdiction as well as the abuse of the power and authority due to the wrong and the ulterior motive?

(viii) Whether the actions of the respondent authorities are otherwise bad in law and facts?

3. That it is stated that the petitioners is a citizen of India and residing well within the territorial jurisdiction of this Hon'ble High Court.
4. That it is stated and humbly submitted that the Secretary of the concerned school had issued the letter bearing letter no. 24 dated 25.7.12 addressed to the District Education Officer and District Programme Officer (Establishment), Secondary Education Madhepura whereby he informed that the Managing Committee in its meeting no. 39 dated 25.07.2012 had extended the service period of the petitioner for two years further. The necessary permission/approval was sought for. The copy of the said communication was forwarded to the Director, Secondary Education, Govt. of Bihar, Patna for information and necessary action.

The photo copy of letter no. 24 dated 25.07.2012 is annexed herewith and marked as Annexure-1 to this writ petition.

5. That it is stated and humbly submitted that the Secretary of the school had issued the letter bearing letter no. 41..... dated 06.10.2012 addressed to the District Education Officer, Madhepura whereby and where under the resolution of the meeting no. 41 dated 13.10.12 had issued that with immediate effect Sri Ranjan Rakesh, Assistant Teacher Zoology was authorized to look into the affairs of the registration for unrequired paper in the interest of the school and the students.

The photo copy of letter no. 41..... dated 06.10.2012 is annexed herewith and marked as Annexure-2 to this writ petition.

6. That it is stated and humbly submitted that the Secretary to the concerned school had issued the Memo No. 01 dated 24.01.2013 intimating that in terms of the letter no. 3019 dated 27.12.2012 passed by the District Education Officer, Madhepura and the letter no. 05 dated 10th January 2013 passed and issued by the District Programme Officer (Estt.)

Madhepura, the private respondent Sri Ashok Kumar Singh was appointed against the respective post and the Headmaster of the concerned school.

The photo copy of letter no. 01 dated 24.01.2013 is annexed herewith and marked as Annexure-3 to this writ petition.

7. That it is stated and humbly submitted that the President of the concerned college had issued the letter bearing letter no. 44 dated 8.10.12 addressed to the District Education Officer, Madhepura and the request were made for the reconsideration of his order with purpose to avoid the unnecessary litigation in the school. It is submitted that although the representations were preferred but the said representation remains pending or unanswered till date.

The photo copy of letter no. 44 dated 8.10.2012 is annexed herewith and marked as Annexure-4 to this writ petition.

8. That it is stated and humbly submitted that Narayan Mandal had preferred the C.W.J.C. No. 12353/2012 by assailing the validity of the order passed by the District Education Officer, Supaul with respect to the appointment of the Assistant Teacher in Janta High School as an Incharge Headmaster referring to the respondent no. 5 as the Secretary of the Managing Committee. The aforesaid writ petition was heard by Hon'ble High Court and ultimately the same was disposed of on 06.08.2012 observing the facts which are as follows:-

“State had filed the counter affidavit knowing that the order was without jurisdiction, there remains no issue for adjudication. The impugned order dated 2.6.2012 is held to be not sustainable. It also satisfies the court that it raises serious questions for consideration by the Principal Secretary of the Education Department, even though he is not a party respondent, for the manner in which it has been passed, on the administrative side.

The photo copy of order dated 6.8.12 passed in C.W.J.C. No. 12353/12 is annexed herewith and marked as Annexure-5 to this writ petition.

9. That it is stated and humbly submitted that the Director, Secondary Education had issued the letter no. 4 legal dated 7.1.13 addressed to all the Regional Deputy Director of Education and all the District Education Officers with respect to the follow up the decision of the Hon'ble High Court passed in C.W.J.C. No. 12353/2012 in case of Narayan Mandal Vs. The State of Bihar and others. However, the reasons based known to the District Education Officer, Madhepura that how and why he passed through the order passed by the Hon'ble High Court and the directions issued by the Director, Secondary Education related to follow up the judicial verdicts.

The photo copy of office letter no. 4 Legal dated 7.1.13 is

annexed herewith and marked as

Annexure-6 to this writ petition.

10. That it is stated and humbly submitted that from the facts elaborated and discussed above it appears that order passed by the District Education Officer Madhepura is against the order passed by the Hon'ble High Court in case of Narayan Mandal and the necessary directions issued by the Director, Secondary Education, Government of Bihar with respect to the compliance of the judicial verdicts in the said background. The demand of the law requires the interference with extend to the setting aside the order under challenge and the concerned authority may be directed to follow ratio decided by the temple of the justices in case of Narayan Mandal Vs. The State of Bihar and others.

11. That it is stated and humbly submitted that the points sum up for the consideration before the Hon'ble High Court is whether the District Education Officer, Madhepura had justified to pass through the order passed by the Hon'ble High court in case of Narayan Mandal Vs. The State of Bihar

and others and consequently the letter of Director for follow up decision by substituting his own decision is justify or not?

The complete answer of the question is the entire exercise by the District Education Officer is illegal not sustainable and the same is contemptuous also or showing the utter disregard to the judicial verdicts.

12. That it is stated and humbly submitted that on or after the careful consideration to the facts and the law and its close analysis it is an appropriate that the order under challenge in the present writ petition may be set aside and concerned authority may be directed to follow the ratio decided by the Hon'ble High Court in case of Narayan Mandal Vs. The State of Bihar and others in its letter and spirit.
13. That the writ petitioner has no other efficacious and/or alternative remedy except to move this Hon'ble Court in writ jurisdiction which would be more adequate and proper.
14. That the writ petitioner has not moved before this Hon'ble Court, earlier for the grant of relief as mentioned in paragraph no.1 to this writ application.

It is therefore, prayed that your Lordships may graciously be pleased to issue Rule NISI calling upon the respondents with show cause and after return of the rules if no sufficient cause may be shown make the relief absolute and allow the prayer made in para 1 of the writ application.

And/or

Pass such other order or orders as your Lordships may deem fit and proper.

And for this the petitioner shall ever pray.

Affidavit

I, Lalan Prasad Singh, aged about 60 years, S/O Late Rajendra Prasad Singh, resident of village – Ekparha, P.O. – Aurahi Ekparha, P.S. – Gamharia, District - Madhepura, do hereby solemnly affirm and state as follows :-

1. That I am petitioner of the case and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of this petition have been read by me which I have fully understood.
3. That the statement made in para nos. 1 to 3, 10 to 14.....are true to my knowledge and those mentioned in para nos. 4 to 9.....are true to information derived from the records and rest are by way of submission of this Hon'ble Court.
4. That the annexures are true/photo/typed copies of their respective originals.

प्रस्तावित उच्च विद्यालय, गम्हरिया पत्रालय-गम्हरिया, मधेपुरा

पत्रांक: 24

दिनांक: 25.7.2022

प्रेषक प्रधानाध्यक्ष/सचिव,

सेवा में जिला शिक्षा पर्याप्तकारी / जिला कार्यक्रम पर्याप्तकारी (माध्यमिक) मधेपुरा

विषय- प्रयागोपचारक से प्राप्त प्रस्तावित के लिए विस्तार के संबंध में
महाशय

निवेदन प्रेषक द्वारा यह है कि बेंक संख्या-39 दिनांक 25/7/22
में विद्यालय प्रवेश कार्डों की सुविधा के लिए प्रस्तावित
प्रयागोपचारक से प्राप्त प्रस्तावित के लिए विस्तार के
संबंध में प्रस्तावित के लिए विस्तार के लिए विस्तार के लिए
विस्तार के लिए विस्तार के लिए विस्तार के लिए विस्तार के लिए

प्रस्तावित के प्रयागोपचारक के द्वारा विस्तार के लिए विस्तार के लिए
विस्तार के लिए विस्तार के लिए विस्तार के लिए विस्तार के लिए

अनुसूचक :-

(1) बेंक संख्या-39 दिनांक 25/7/22
के लिए विस्तार के लिए विस्तार के लिए

विस्तार के लिए

25/7/22

प्रस्तावित के लिए विस्तार के लिए

कार्यवाही:- (1) निदेशक माध्यमिक, विद्यालय, प्रयागोपचारक

(2) निदेशक माध्यमिक विस्तार के लिए विस्तार के लिए विस्तार के लिए विस्तार के लिए विस्तार के लिए विस्तार के लिए विस्तार के लिए

विस्तार के लिए

अनुसूचक के लिए

25/7/22

प्रस्तावित के लिए विस्तार के लिए

विस्तार के लिए

विस्तार के लिए

(विस्तार के लिए)

कैंक संख्या - 39

विद्यालय प्रबंध कार्यशाखा समिति के सदस्यों की
कैंक 5.7.12 को अतिरिक्त 2000 विद्यालय भवन
के कार्यकारी अध्यक्ष की वसुधा मादक की अध्यक्षता
अध्ययन प्रारंभ की गयी

प्रस्ताव संख्या-01
गते कैंक की कार्यवाही
की सम्पुर्ण हो

समाजिक कार्य गते कैंक
की कार्यवाही को पढकर
सुनाया गयी समिति सर्व
सम्मत है इस की सम्पुर्ण
कली है

प्रस्ताव संख्या-02
प्रधाना ध्यापक के
सेवा विस्तार पर विचार

गते सभ्य प्रसाद सिंह प्रधाना-
ध्यापक दिनांक 31.7.2012
की सेवा निवृत्त होने का है
सिंह के सेवा निवृत्त हो जाने पर
विद्यालय के पढन-पाठन सुचारु
पर-भरा जाने की संभावना है
कार्यक्रम गते सिंह कार्य दफा, कमेंट
कर्मचारी निष्ठ कुशल प्रशासक के
साल-साल एक सुभाषित शिक्षक
में है

कैंक संख्या-39

समिति सर्व सम्मत है
विद्यालय पढन-पाठन की व्यवस्था
की सभ्य वेंदर बनाने रखने
है कार्य-दफा, कमेंट, कर्मचारी
एक सुभाषित की गइने नभर
रखने हुए गते सभ्य प्रसाद सिंह
की सेवा की अगले दो वर्षों के
लिए विस्तारित करनी है। इस
अर्थ में ही सिंह के सेवा की
प्रधाना ध्यापक के रूप में कार्य
करने रहेगी

प्रस्तावित उच्च विद्यालय, गम्हरिया
पत्रालय-गम्हरिया, मधेपुरा

पत्रांक-24

दिनांक 25.07.12

प्रेषक,

सचिव

सेवा में,

जिला शिक्षा पदाधिकारी/जिला कार्यक्रम पदाधिकारी (मा0 शि0)
मधेपुरा ।

विषय:- प्रधानाध्यापक श्री ललन प्रसाद सिंह के सेवा विस्तार के सम्बन्ध में ।

महाशय,

निवेदन पूर्वक सूचित करना है कि बैठक संख्या 39 दिनांक 25.07.12 में विद्यालय प्रबंध कारिणी समिति के सदस्यों ने सर्व सम्मति से प्रधानाध्यापक श्री ललन प्रसाद सिंह की सेवा को अगले दो वर्षों के लिए विस्तारित कर दिया है। इसलिए श्री ललन प्रसाद सिंह प्रधानाध्यापक के रूप में ही अगले दो वर्षों तक कार्य करते रहेंगे।

अतः श्रीमान् से अनुरोध है कि श्री ललन प्रसाद सिंह को प्रधानाध्यापक के रूप में अगले दो वर्षों तक के लिए स्वीकृति प्रदान की जाये ।

अनुलग्नक-(1)बैठक संख्या-39 दिनांक 25.07.2012
की छाया प्रति दो पृष्ठों में ।

विश्वासभाजन

ह0-अस्पष्ट

सचिव

प्रस्तावित उच्च विद्यालय

प्रतिलिपि- (1) निदेशक मा0 शि0, बिहार, पटना एवं

(2) निदेशक मा0शि0 वित्तरहित कोषांग, नया सचिववालय, बिहार, पटना को सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित ।

विश्वासभाजन

ह0-अस्पष्ट

सचिव

प्रस्तावित उच्च विद्यालय

बैठक संख्या-39

विद्यालय प्रबंध कारिणी समिति के सदस्यों की बैठक 25.07.12 को अपराहन 2 बजे विद्यालय भवन में कार्यकारी अध्यक्ष श्री बमभोला यादव की अध्यक्षता प्रारंभ की गयी।

प्रस्ताव संख्या 01 सभाध्यक्ष द्वारा गत बैठक की कार्यवाही को पढ़कर गत बैठक की कार्यवाही सुनाया गया। समिति एवं सम्मति से इस की सम्पुष्टि की सम्पुष्टि करती है।

प्रस्ताव संख्या-02 श्री ललन प्रसाद सिंह प्रधानाध्यापक दिनांक 31.07.2012 प्रधानाध्यापक के सेवा को सेवा निवृत्त होने वाले है। श्री सिंह के सेवा निवृत्त हो जाने पर विद्यालय में पठन पाठन की व्यवस्था चर-मरा जाने की संभावना है।

समिति सर्व सम्मति से विद्यालय पठन-पाठन की व्यवस्था को सतत बेहतर बनाये रखने हेतु कार्यदक्ष, कर्मठ, कर्तव्यनिष्ठ एवं सुयोग्यता को मद्दे नजर रखते हुए श्री ललन प्रसाद सिंह की सेवा को अगले दो वर्षों के लिए विस्तारित करती है। इस अवधि में श्री सिंह पूर्व की भांति प्रधानाध्यापक के रूप में कार्य करते रहेंगे।

प्रस्ताव सं0-03 प्रधानाध्यापक ने समिति प्लान बैंच-डेक्स की कुछ अन्यान्य सदस्यों की अस्पष्ट की ओर दिलाया।

राय से। विचारोपरांत समिति सर्व सम्मति से अस्पष्ट बैंच डेक्स बनवाने की एवं प्रधानाध्यापक की दो। बैंच में जो लागत लगेगा उस का अस्पष्ट विद्यालय विकास कोष से की जायेगी।

सभाध्यक्ष के धन्यवाद ज्ञापन के बाद सभा की कार्यवाही समाप्त की गयी।

ह0-अस्पष्ट
कार्यकारी अध्यक्ष
प्रस्तावित उच्च विद्यालय
गम्हरिया

1. शीतल प्रसाद मंडल

25.07.2012

2. जगेश्वर प्रसाद मंडल

25.07.2012

3. ह0-अस्पष्ट

25.07.2012

4. ललन प्रसाद सिंह

25.07.2012

5. प्रियवत पासवान

25.07.2012

प्रस्तावित उच्च विद्यालय, गम्हरिया

प्रयालय- गम्हरिया, मधेपुरा

06.10.2012

माननीय शिक्षण अधिकारी, मधेपुरा

प्रस्तावित उच्च विद्यालय गम्हरिया, मधेपुरा
मिसांशिका परियोजना कार्य, मधेपुरा।

प्रस्तावित उच्च विद्यालय गम्हरिया में 0.75 R फार्म एम अन्वय प्रकल्प
के लिए प्राथमिक कार्य के लिए म

समस्त सुविधाएं करना है कि सीमित न लगे लम्बित से धारा 10(1) की
द्वारा हुए 0.75 R पंजीयन फार्म एम अन्वय प्रकल्प के लिए तत्काल
से रजिस्ट्रार को सहायक शिक्षक जीम मिश्रा के प्राथमिक कार्य के लिए

अतः पंजीयन के संबंध में कार्य के
से रजिस्ट्रार को सहायक शिक्षक जीम मिश्रा के प्राथमिक कार्य के लिए

विश्वसिंभांगु
उपस्थित

21/10/2012

...

(20)

~~संस्था~~ संभित धात्र लित्र की
 देवत उह संभित धात्र की
 मिनी मीनी एके मीनी मीनी
 सिंह प्रधागाप्यपक का संभित लित्र
 नथे ए माता है तब तक का लित्र
 ये संभित संभित मिनी लित्र का
 प्रधागाप्यपक पर लित्र प्रधागाप्यपक
 सती है तब तक पंजीयन कार्य
 वरिष्ठ नथे ए संभित
 पंजीयन संभित का लित्र संभित
 का कार्य वरिष्ठ संभित की माता है

वरिष्ठ संभित
 13.10.2012 संभित

प्रधागाप्यपक संभित

(1) वरिष्ठ संभित संभित (संभित)
 13/10/2012

(2) वरिष्ठ संभित संभित 13/10/2012

(3) - वरिष्ठ संभित 13.10.2012

(4) वरिष्ठ संभित संभित

(5) वरिष्ठ संभित

(6)

T.C.

एनेक्सचर-2

प्रस्तावित उच्च विद्यालय, गम्हरिया
पत्रालय-गम्हरिया, मधेपुरा

पत्रांक- 41

दिनांक 06.10.12

प्रेषक,

सचिव
प्रस्तावित उच्च विद्यालय गम्हरिया, मधेपुरा ।

सेवा में,

जिला शिक्षा पदाधिकारी,
मधेपुरा ।

विषय:- प्रस्तावित उच्च विद्यालय गम्हरिया के लिए ओ.एम.आर फार्म एवं अन्य प्रपत्र के लिए प्राधिकृत करने के सम्बन्ध में ।

महाशय,

साग्रह सूचित करना है कि समिति ने सर्व सम्मति से छात्र हित को देखते हुए ओ.एम.आर. पंजीयन फार्म एवं अन्य प्रपत्रादि के लिए तत्काल ही रंजन राकेश सहायक शिक्षक जीव विज्ञान को प्राधिकृत किया है ।

अतः पंजीयन संबंधित कार्यों को श्री रंजन राकेश ही निस्पादित करेंगे ।

विश्वासभाजन

ह0-अस्पष्ट

06.10.2012

सचिव

प्रस्तावित उच्च विद्यालय

बैठक संख्या-42

विद्यालय प्रबंध कारिणी समिति की एक आवश्यक बैठक आज दिनांक 13.10.2012 को अध्यक्ष श्री बमभोला यादव की अध्यक्षता में दिन के छः बजे अपराहन में विद्यालय प्रांगण में प्रारंभ की गयी।

प्रस्ताव संख्या 01 सभाध्यक्ष द्वारा गत बैठक की कार्यवाही को पढ़कर गत बैठक की कार्यवाही सुनाया गया। जिसकी समिति सर्व सम्मति से सम्पुष्टि की सम्पुष्टि करती है।

प्रस्ताव संख्या-02 विद्यालय प्रबंध समिति दिनांक 13.10.12 तक पंजीयन आज दिनांक 13.10.2012 विद्यालय को नहीं प्राप्त कराये जाने पर गहन विचार 2012 तक पंजीयन नहीं विमर्श किया गया। विचारोपरांत यह निर्णय लिया गया प्राप्त होने पर विचार। कि सेवा निवृत्त प्रधानाध्यापक श्री ललन प्रसाद सिंह के संबंध में समिति की बैठक संख्या - 39 दिनांक 25.07.2012 को सेवा विस्तार के लिए सचिव के पत्रांक 24 दिनांक 25.07.12 के द्वारा सक्षम पदाधिकारी को लिखा गया था। पुनः सचिव महोदय के पत्रांक 44 दिनांक 08.10.2012 के पत्र के द्वारा सेवा विस्तार के संबंध में अन्य व्यक्ति का साक्ष्य के साथ सक्षम पदाधिकारी को लिखा गया था। लेकिन अभी तक मामला लम्बित है। इसलिए तत्काल समिति छात्र हित को देखते हुए सर्व सम्मति से यह निर्णय लेती है कि जब तक ललन प्रो सिंह प्रधानाध्यापक का सेवा विस्तार नहीं हो जाता है तब तक के लिए श्री रंजन राकेश विज्ञान शिक्षक को प्रभारी प्रधानाध्यापक पद के लिए प्राधिकृत करती है। ताकि पंजीयन कार्य बाधित नहीं हो सके।

धन्यवाद ज्ञापन के बाद सभा की कार्यवाही समाप्तकी गयी

ह0—अस्पष्ट

13.10.2012

अध्यक्ष

प्रस्तावित उच्च विद्यालय

गम्हरिया

1. शीतल प्रसाद मंडल

13.10.2012

2. जगेश्वर प्रसाद मंडल

13.10.2012

3. ह0—अस्पष्ट

13.10.2012

4. प्रियवत पासवान

5. ललन प्रसाद सिंह

प्रस्तावित उच्च विद्यालय, गम्हरिया

पत्रालय-गम्हरिया, मधेपुरा

पत्रांक.....

दिनांक.....

प्रेषक : प्रधानाध्यापक / सचिव,

शेखर,

विषय:-

महाराज,

अविरुचन

जिला शिक्षा पदाधिकारी मधेपुरा के पत्रांक 8110 दिनांक 27 दिसम्बर 2012 एवं जिला कार्यक्रम पदाधिकारी (माध्यमिक) मधेपुरा के पत्रांक 05 दिनांक 10 जनवरी 2013 के निर्देश के आलोक में संस्था के सुयोग्य एवं बरीयतम शिक्षक को अर्थात् कुमर की तत्काल प्रभुता से प्रत्याग्राह्यता के पत्र पर विद्युत् कृत किया जाता है।

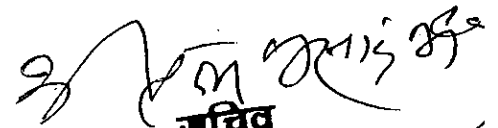
ज्ञापक-01, दिनांक-24-01-2013

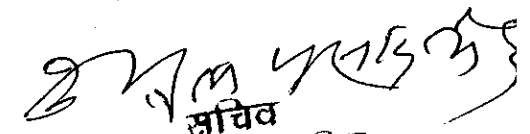
प्रतिलिपि प्रेषित:-

- ① जिला कार्यक्रम पदा० (मा० शि०) मधेपुरा
- ② जिला शिक्षा पदाधिकारी मधेपुरा
- ③ श्री अशोक कुमार - प्रधानाध्यापक
- ④ श्री राजन राईश - पूर्व प्रधानाध्यापक
- ⑤ सचिव, बिहार वि० मधीया सक्षिपि, पटना
- ⑥ निदेशक, मा० शि०, बुद्ध मार्ग, पटना

अनुलग्नक:- 01

- ① प्रौद्योगिकी शक्ति की योजना प्रति।


सचिव
राष्ट्रीय वि०, गम्हरिया
मधेपुरा
(श्रीतल प्रचार मंडल)


सचिव
राष्ट्रीय वि०, गम्हरिया
मधेपुरा
(श्रीतल प्रचार मंडल)

एनेक्सचर-3

प्रस्तावित उच्च विद्यालय, गम्हरिया
पत्रालय-गम्हरिया, मधेपुरा

पत्रांक-

दिनांक

प्रेषक,

सचिव

सेवा में,

विषय:-

महाशय,

अधिसूचना

जिला शिक्षा पदाधिकारी, मधेपुरा के पत्रांक 3010 दिनांक 27 दिसम्बर 2012 एवं जिला कार्यक्रम पदाधिकारी (मा0शि0) मधेपुरा के पत्रांक 05 दिनांक 10 जनवरी 2013 के निदेश के आलोक में संस्था के सुयोग्य एवं वरीयतम शिक्षक श्री आलोक कुमार को तत्काल प्रभाव से प्रधानाध्यापक के पद पर नियुक्त किया जाता है।

ज्ञापांक -01, दिनांक 24.01.2013

ह0-अस्पष्ट

(शीतल प्रसाद मंडल)

06.10.2012

सचिव

प्रस्तावित उच्च विद्यालय,
गम्हरिया, मधेपुरा ।

प्रतिलिपि प्रेषित -

1. जिला कार्यक्रम पदा0 (मा0 शि0) मधेपुरा ।
2. जिला शिक्षा पदाधिकारी, मधेपुरा ।
3. श्री अशोक कुमार - प्रधानाध्यापक
4. श्री रंजन राकेश - पूर्व प्रधानाध्यापक
5. सचिव, बिहार वि0 परीक्षा समिति, पटना
6. निदेशक, मा0 शि0, बुद्ध मार्ग, पटना ।

अनुलग्नक-01

1. प्रोसिडिंग रजिस्टर की छाया प्रति ।

ह0-अस्पष्ट

(शीतल प्रसाद मंडल)

06.10.2012

सचिव

प्रस्तावित उच्च विद्यालय,
गम्हरिया, मधेपुरा ।

Annexure 5

16

23

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12353 of 2012

Narayan Mandal S/O Late Babua Lal Mandal R/O
Mehasimar, P.O. Sigiam, P.S. Kishunpur, District Supaul

Petitioner/s

Ver

- 1. The State Of Bihar
- 2. The District Education Officer, Supaul
- 3. The Head Master, Janta High School, Mehasimar, Sigiam, P.S. - Kishunpur, District- Supaul
- 4. Kamal Narayan Seth, An Assistant Teacher, Janta High School, Mehasimar, Sigiam, P.S. - Kishunpur, District- Supaul
- 5. Sri Satya Narayan Seth S/O Late Bihari Seth R/O Mehasimar, P.O.- Sigiam, P.S. - Kishunpur, District- Supaul

Respondent/s

Appearance :

For the Petitioner/s : Mr. Bipin Bhusari Singh
For the Respondent/s : Mr. A.Ujjwal Sr25

FORAM: HONOURABLE MR. JUSTICE NAVIN SINHA
DEAL ORDER

3 06-08-2012

Heard learned counsel for the petitioner, State and for private respondent nos. 4 and 5.

The petitioner questions the memo No. 699 dated 2.6.2012 passed by the District Education Officer, Supaul, appointing respondent no. 4, as Assistant Teacher in the Janta High School as Incharge Headmaster referring to respondent no. 5 as Secretary of the Managing Committee.

Learned counsel for the petitioner submits that the institution is private in nature. The Board is only concerned with aspects of recognition and grant in aid. The

respondents have no jurisdiction to interfere with and take decisions on behalf of the Managing Committee of the college.

Counsel for private respondent nos. 4 and 5 submits that the matter may be referred for appropriate consideration to the Principal Secretary. The impugned order adequately refers to the enquiry report of the Regional Deputy Director dated 16.12.2010 in favour of the respondents.

Counsel for the State from the counter affidavit submits that the school in question was private but recognized by the Board. That the official respondents were not concerned with and cannot interfere with the functioning of a privately affiliated school managed by its own Managing Committee.

The submission on behalf of respondent nos. 4 and 5 with regard to grant in aid and consequent power of the respondents to pass the impugned order is all covered by the discussion in C.W.J.C. No. 13173 of 2012 discussing in extenso the provisions of the grant in aid scheme.

Once the State has filed a counter affidavit acknowledging that the order was without jurisdiction, there remains no issue for adjudication.

The impugned order dated 2.6.2012 is held to

WE

NO

Patna High Court CWJ No. 2353 of 2012 (3) dt.06-08-2012

3/3

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be not sustainable. It also satisfies the Court that it raises serious questions for consideration by the Principal Secretary of the Education Department, even though he is not a party respondent, for the manner in which it has been passed, on the administrative side.

The writ application is allowed.

NOT OFFICIAL
P. Kumar/-

(Navin Sinha, J)

Amexm-6

26

(9)

पत्रांक-अधि०/153/11 मा०शि०...../13

बिहार माध्यमिक शिक्षा कार्यालय, बुद्धमार्ग, पटना।

04 (for file)

5/1/13

प्रेषक,

निदेशक (मा०शि०),
बिहार, पटना।

सवा में,

सभी क्षेत्रीय शिक्षा उप निदेशक,
सभी जिला शिक्षा पदाधिकारी।

विषय:-

सी० डब्लू० जे० सी० संख्या-12353/12 नारायण मंडल बनाम राज्य सरकार में पारित न्यायादेश के अनुसरण के संबंध में।

महाशय,

उपर्युक्त विषय के संबंध में कहना है कि माननीय उच्च न्यायालय पटना द्वारा सुप्रीम कोर्ट के एक स्थापना की अनुमति प्राप्त विद्यालय के मामले में सी० डब्लू० जे० सी० संख्या-12353/12 में दिनांक-06.08.12 को पारित न्यायादेश की छायाप्रति सूचनार्थ एवं आवश्यक कार्रवाई हेतु संलग्न।

अनुलग्नक:-यथावत।

विश्वासभाजन

AM 21/1/13

निदेशक (मा०शि०),
बिहार, पटना।

O/C

निदेशक
21/1/13