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12/5/15

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2015.
(Arising out of C.W.J.C. No. 10887 of 2013).
Tej Narain Kumar. Petitioner.

Versus.

The State of Bihar & Ors. Opposite Parties/Contem-
nors.

S Y N O P S I S

Prayer :- This contempt application is being filed for
not complying orders passed in C.W.J.C. No.
10887 of 2013 by Hon'ble Mr. Justice Mihir Kumar
Jha.

Dates and Facts ;

The petitioner filed C.W.J.C. no. 10887/2013
for payment of his salary for the period
from 21.11.1986 to 8.7.1996.

The abovesaid writ application was disposed
of on 18.6.2013 with the direction that the
Director, Primary Education would record

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2015

(arising out of C.W.J.C. No. 10887 of 2013).

Tej Narain Kumar. Petitioner.

Versus.

The State of Bihar, and Others. ... Opposite Parties.

Sub.:- Contempt Petition.

I N D E X

<u>Sl.no.</u>	<u>Particulars.</u>	<u>Page nos.</u>
1.	An application with affidavit.	1 to 6.
2.	<u>Annexure-1.</u> A photo stat copy of the order passed in C.W.J.C. No.10887 of 2013 order on 18.06.2013.	7-10
3.	<u>Annexure-2.</u> A photo stat copy of representation filed by petitioner.	11-12
4.	<u>Vakalatnama.</u>	

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2015.

(Arising out of C.W.J.C. No. 10887 of 2013).

In the matter of an

application under Article

215 of the Constitution of

India.

And

In the matter of;

Tej Narain Kumar, S/o Faudar Prasad,

R/o Village- Mohanpur, P.O. - Hassanpur,

P.S.- Madhepura, District- Madhepura.

..... Petitioner.

Versus.

1. The State of Bihar.

2.

2. The Chief Secretary, Sri Anjani Kumar Sinha, Bihar Patna.
3. The Director, Sri Kamal Kishor Sinha, Primary Education,
Bihar, Patna.
4. The Collector, Shri Gopal Meena, Madhepura.
5. The Deputy Development Commissioner, Shri Shrawan Kumar
Pansari, Madhepura.
6. Shri Dharendra Narayan Mishra, the Regional Deputy
Director, Kosi Division, Saharsa.
7. ~~Ex~~ Shri Prabodh Kumar, the District Programme Officer,
Establishment, Madhepura.

.... Respondents. ... Cpp. Parties.

To,

The Hon'ble Mr. Justice L. Narasimha Reddy, the
Chief Justice of the High Court of Judicature
at Patna and her companion Justices of the said
Hon'ble Court.

3.

The humble petition on
behalf of the petitioner
above named;

Most Respectfully Sheweth :-

1. That this application under Article 215 of the Constitution of India for not complying the orders of this court passed in C.W.J.C. no.10887 of 2013 by Hon'ble Judge Mr. Justice Mihir Kumar Jha, that the Director Primary Education would record the findings whether the petitioner fulfils the five conditions and his working in the school from 21.11.1988 to 8.7.1996 within a period of four months from the date of filing of the representation by the petitioner enclosing a copy of this order.

A photo stat copy of the
order passed in C.W.J.C.
No. 10887 of 2013, order on

4.

18.06.2013 is annexed herewith
and marked as Annexure-1 to
this petition.

2. That the order of the Hon'ble High Court
was passed on 18.06.2013 to examine the matter within
four months and to record the finding with respect to
fulfillment of five conditions in favour of the Plain-
tiff. If the conditions are satisfied passing of order
of payment of salary to be made from 21.11.88 to 8.7.96.

3. That the petitioner in pursuance of the
~~above order~~ filed a representation to the Director,
Rural Primary Education, Bihar.

A photo stat copy of
representation filed by
petitioner is annexed here-
with and marked as Annexure-2
to this petition.

5.

4. That the respondent has deliberately and wilfully disobeyed the orders of the court and did not submit his findings within the stipulated time.

5. That the petitioner is retired and is in great financial distress.

It is, therefore, humbly prayed that the Contempt under Article 215 of the Constitution of India may be issued to the Respondent Authority for not complying the orders of the Hon'ble High Court passed on 18.06.2013 in C.W.J.C. No.10887 of 2013 and further order or orders as your lordship may think fit and proper to issue.

And for this the petitioner shall ever pray.

A F F I D A V I T

I, Tej Narain Kumar, aged about 59 years, S/o Faudar Prasad, resident of Village- Mohanpur, P.O., Hassanpur, P.S. - Madhepura, District- Madhepura, do hereby solemnly affirm and state as follows :-

1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this petition have been read over and explained to me in Hindi which I have fully understood and they are true to my knowledge and belief.
3. That the annexures are true photo stat copies of their respective originals.

तेज नरैन कुमार

Amevbe-7

(7)

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL WRIT JURISDICTION CASE NO.10887 OF 2013

TEJ NARAIN KUMAR, S/O FAUDAR PRASAD, R/O VILLAGE
MOHANPUR, P.O. HASSANPUR, P.S. MADHEPURA, DISTRICT
MADHEPURA.

PETITIONER/S

VERSUS

1. THE STATE OF BIHAR.
2. THE CHIEF SECRETARY, BIHAR, PATNA.
3. THE DIRECTOR, PRIMARY EDUCATION, BIHAR, PATNA.
4. THE COLLECTOR, MADHEPURA.
5. THE DEPUTY DEVELOPMENT COMMISSIONER, MADHEPURA.
6. THE REGIONAL DEPUTY DIRECTOR, KOSI DIVISION,
SAHARSA.
7. THE DISTRICT PROGRAMME OFFICER, ESTABLISHMENT,
MADHEPURA.

RESPONDENT/S

Appearance :

For the Petitioner/s: MS. Mallika Mazumdar, Adv.

For the Respondent/s: Mr. M.K Mishra, GP-25.

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2/ 18-06-2013

Heard counsel for the parties.

2. As with regard to the solitary prayer of the petitioner for payment of his salary for the period from 21.11.1986 to 08.07.1996, Miss Mallika Mazumdar, learned counsel appearing on behalf of the petitioner has submitted that when the Director Primary Education by order dated 21.11.1988 had already approved the appointment and service of the petitioner with a clear direction for payment of his salary w.e.f., the date of the order i.e. 21.11.1988 to 08.07.1996 there was no justifiable reason for withholding payment of salary of the petitioner. She has

GOV. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
PATNA SCORE PATNA

COURT FEE

STAMP DUTY

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from 21.11.1988 to 08.07.1996. While examining such claim of the petitioner, the Director of Primary Education must be satisfied as with regard to fulfillment of the five conditions mentioned in the order dated 21.11.1988 namely:-

1. 1.1.71 के पूर्व में विधिवित नियुक्त हो।
2. सेवा अनुमोदन के पूर्व ही योग्यता मैट्रिक अप्रशिक्षित की हो।
3. योग्यता प्रमाण पत्र जाचोपरांत सही पाया जाए।
4. नियुक्ति की तिथि से आज तक लगातार कार्यरत हो।
5. छात्र अनुपात में उनके पद की आवश्यकता हो।

5. If the Director, Primary Education would record his finding as with regard to fulfillment of aforesaid five conditions in favour of the petitioner and is also satisfied with regard to actual working of the petitioner in the School for the aforementioned period from 21.11.1988 to 08.07.1996, he would also do the needful by passing an order for payment of salary to the petitioner for the aforesaid period. If however, he would find the petitioner to be disentitled for payment of salary for the aforesaid period or part thereof he would pass a reasoned order and communicate the same to the petitioner. This exercise, however, must be completed by Director Primary Education (Respondent no. 3) within a period of four months from the date of filing of the

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representation by the petitioner enclosing a copy of this order.

6. With the aforementioned observations and direction, this application is disposed of.

sdl-
(Mihir Kumar Jha, J)

Ranjan

DECLARED TO BE TRUE PHOTO COPY
12.7.13
For Joint Registrar (J)
Patna High Court
Registered W/S 76 Act 7 of 1978

Ranvijay Singh
12/7/2013
29/8/2014

COPYING

Annexure-2

(11)

सेवा में,

निदेशक,
प्राथमिक शिक्षा बिहार, पटना 1

विषय: माननीय उच्च न्यायालय पटना में दायर याचिका
सं०-10887/2013 तेजनारायण कुमार बनाम राज्य सरकार
एवं अन्य के मामले में दिनांक-18.06.2013को पारित न्याय
निर्णय का कार्यान्वयन के संबंध में।

महाशय,

उपर्युक्त विषयक न्याय निर्णय की मूल प्रति इसके साथ
संलग्न करते हुए निवेदन करना है कि विभागीय पत्रांक 2871
दिनांक -21.10.1988 द्वारा मेरी सेवा का अनुमोदन सहायक
शिक्षक प्राथमिक विद्यालय, चिकनीखाढ़ सिंहेश्वर (पश्चिम), जिला-मधेपुरा
के पद पर आदेश निर्गत की तिथि यथा 21.11.88 से की गई।

कि मंत्री प्रबंध समिति सहायता प्राप्त निम्न प्राथमिक
विद्यालय, चिकनीखाढ़ के आदेश दिनांक 25.11.70 के द्वारा मेरी
नियुक्ति की गई थी। (छाया प्रति संलग्न है)

में उक्त विद्यालय में दिनांक 25.11.70 से अद्यतन कार्यरत
हूँ। उपस्थिति पंजी की छाया प्रति संलग्न है। मेरी शैक्षणिक योग्यता
विद्यालय में योगदान की तिथि को दसवीं विशिष्ट उत्तीर्ण थी।
(छाया प्रति संलग्न) मार्च 1972 ई० के माध्यमिक परीक्षा में
प्रवेशिकोत्तीर्ण हुआ। (बिहार विद्यालय परीक्षा समिति द्वारा निर्गत
पगमाण -पत्र की छाया प्रति संलग्न है)

शिक्षक प्रशिक्षण विद्यालय परीक्षा 1977 में मैंने उत्तीर्णता प्राप्त
की है। (छाया प्रति संलग्न)

मेरी योग्यता प्रमाण-पत्रों की जाँच जिला शिक्षा अधीक्षक, मधेपुरा
द्वारा की जा चुकी है।

जिला शिक्षा अधीक्षक मधेपुरा का कार्यालय आदेश ज्ञापांक 1557-4
दिनांक- 09.07.1996 द्वारा मुझे विभागीय पत्रांक -2871
दिनांक-21.11.88 के आलोक में वेतनमान 975-1540 में दिनांक
-09.07.96 से वेतन भुगतान की अनुमति दी गई। जबकि मुझे
21.11.88 के प्रभाव से ही वेतन का भुगतान होना चाहिए।
(पत्र की छाया प्रति संलग्न)

कालान्तर में जिला शिक्षा अधीक्षक मधेपुरा का कार्यालय आदेश
ज्ञापांक -321 दिनांक -29.03.05 के द्वारा अप्रशिक्षित वेतनमान का

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संशोधन मैट्रिक प्रशिक्षित वेतनमान 4500-125-7000 में दिनांक -09.07.96से वेतन एवं भत्ते का भुगतान किया गया। (पत्र की छायाप्रति संलग्न)

मेरी नियुक्ति की तिथि से आज तक कार्यरत रहने की सूचना तत्कालीन प्रधानाध्यापक श्री सुखदेव साह द्वारा दिनांक -05.07.2002 को निर्गत प्रमाण-पत्र की छायाप्रति इसके साथ संलग्न है। साथ ही नियुक्ति की तिथि से अद्यतन उपस्थिति पंजी की छायाप्रति भी संलग्न की जा रही है।

अतः निवेदन है कि पुक्षे दिनांक -21.11.88 से 08.07.96 तक की कृपा की अवधि का नियमित वेतन भुगतान आदेश सक्षम पदाधिकारी को निर्गत करने की कृपा की जाय।

इसके लिये सदा आभारी रहूंगा।

अनुलग्नक:-

- (1) माननीय उच्च न्यायालय का न्यायनिर्णय दिनांक 18.06.2013 की सत्यापित प्रति मूल में।
- (2) विभागीय पत्रांक 2871 दिनांक 21.10.1988 की छाया प्रति 1
- (3) प्रबंध समिति के सचिव द्वारा निर्गत नियुक्ति आदेश दिनांक 25.11.70 की छाया प्रति।
- (4) नियुक्ति की तिथि 25.11.70 के दसवीं विशिष्ट उत्तीर्णता का प्रमाण पत्र की छाया प्रति।
- (5) वर्ष 1972 में मैट्रिक परीक्षा उत्तीर्णता प्रमाण पत्र की छाया प्रति।
- (6) शिक्षक प्रशिक्षता विद्यालय परीक्षा 1977 उत्तीर्णता प्रमाण पत्र की छाया प्रति।
- (7) जिला शिक्षा अधीक्षक मधेपुरा का आदेश ज्ञापांक 1557-4 दिनांक 9.7.96 की छाया प्रति।
- (8) जिला शिक्षा अधीक्षक मधेपुरा का आदेश ज्ञापांक 321 दिनांक 29.3.05 की छाया प्रति 1
- (9) तत्कालीन प्रधानाध्यापक की सुखदेव साह द्वारा दिनांक 5.7.2002 को निर्गत उपस्थिति प्रमाण पत्र की छाया प्रति 1

पत्राचार का पता:-

प्राथमिक विद्यालय चिकनीखाढ़
पो०-भवानीपुर (गम्हरिया)
जिला-मधेपुरा

विश्वासभाजन

रजनीश कुमार

सहायक शिक्षक
प्राथमिक विद्यालय चिकनीखाढ़
अंचल गम्हरिया (मधेपुरा)

further submitted that once the respondents have made the order dated 08.07.1996, it would also be deemed that the petitioner had fulfilled the five conditions enumerated in the order of approval accorded by the Director of Primary Education dated 21.11.1988.

3. Learned counsel for the State on the other hand has pointed out that there is no clear averment in the writ petition as with regard to fulfillment of five conditions recorded in the order of Director of Primary Education and therefore, unless the competent authority is satisfied as with regard to the fulfillment of the five conditions enumerated in the order dated 21.11.1988, no direction can be issued for payment of salary to the petitioner.

4. In the considered opinion of this Court, the issue requires to be examined by the competent authority and since the petitioner has filed his representation which was also forwarded by the controlling authority namely, the District Superintendent of Education, Madhepura, this Court would direct the Director of Primary Education to examine as to whether the petitioner would be entitled for payment of his salary for the aforementioned period i.e.,

(ii)

the findings regarding fulfilment of conditions in favour of petitioner and if he is not entitled for payment of salary, a reasoned order is to be passed within four months.

The petitioner filed representation but no heed was paid.

Hence this contempt application.