

(2013) 01 PAT CK 0050

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 12710 of 1999

Shyamdeo Pandey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Citation : (2013) 01 PAT CK 0050

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Advocate : Shree Kant Pandey, for the Appellant; Rabindra Kumar Choubey, SC 8 for the State, for the Respondent

Final Decision : Allowed

Judgement

Navaniti Prasad Singh, J.—The two petitioners are Assistant Teachers in Ram Chandra Sanskrit High School, Simri, District - Buxar. By this writ application, they have sought the quashing of letter dated 29.01.1999 passed by Special Director (Secondary Education), Bihar addressed to the Chairman/Secretary, Bihar Sanskrit Shiksha Board, Patna. By this letter, Government has directed for cancelling the primary units of 41 Sanskrit schools and in the list of 41 schools, petitioners' school figures at serial number 31 in relation to the two petitioners.

2. In the counter affidavit, the stand is taken that vide State Government's letter No. 1056 dated 21.12.1995, it had been noted that after lapse of the Ordinances taking over some Sanskrit schools, the posts, which were recognized by the Ordinance, also lapsed. Accordingly, the petitioners' posts became unsanctioned. By interlocutory application, this communication, which is Annexure A to the counter affidavit, was also challenged.

3. By supplementary affidavit, petitioners have also brought on record the letter of the State Government as contained in Memo No. 625 dated 03.07.1999 written by the Special Director (Secondary Education), Bihar, Patna wherein it has been stated with reference to impugned Annexure 8 that the name of

petitioners" school was wrongly mentioned in the list. On basis of the aforesaid, learned counsel for the petitioners submits that the very basis for disentitling the petitioners from payment being impugned Annexure 8 stands nullified. He further submits that in view of the judgment of this Court in the case of Deo Shankar Jha & Others -Versus- The State of Bihar & Others since reported in 2010 (4) PLJR 346, the communication as contained in Annexure A to the counter affidavit being Memo No. 1056 dated 21.12.1995 has already been declared to be a dead letter by this Court and in that view of the matter, the two grounds taken in the counter affidavit to deny payments to the petitioners cannot be sustained.

4. I have gone through the writ petition and in my view, the contention of the learned counsel for the petitioners is correct. Firstly, the petitioners were sought to be denied their salary which was being paid by the State Government on basis of the impugned Annexure 8 as aforesaid. Subsequently, the Government itself by Annexure 12, which is a part of supplementary affidavit, has clearly stated that the name of petitioners" school was wrongly included in the list of schools for which payment would not be made. This stand has not been controverted by the State. That being so, the very basis for denying payment to the petitioners becomes unfounded. Then, in the counter affidavit, reliance was placed on the misconceived letter No. 1056 dated 21.12.1995. This letter again, as noted, has been declared to be a dead letter by this Court earlier itself. Thus, the two grounds for denying payments of remuneration to the two petitioners are totally unfounded.

5. Thus, in my view, the petitioners who were being paid by the State Government till 1995 are liable to be paid by the State Government as Assistant Teachers in Sanskrit schools. It may be pointed out that petitioners" school is one of the schools that was entitled to grand-in-aid by the State Government which has not yet been withdrawn.

6. In that view of the matter, the writ petition is allowed. The Special Director (Secondary Education), Government of Bihar, Patna would ensure immediate payment of all the dues to the two petitioners accordingly. Needless to say that order of this Court would be complied, the responsibility of which would be on the Special Director (Secondary Education), Government of Bihar, Patna, within three months from the date of production of a copy of this order before him.