

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 13th AUGUST, 2024

WRIT PETITION NO.19551/2012

BIHARI LAL SHAH AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance :

Shri Kamlesh Dwivedi – Advocate for the petitioners.

Smt. Shraddha Tiwari – Panel Lawyer for the respondents-State.

Reserved on : 08/07/2024

Pronounced on : 13/08/2024

This petition having been heard and reserved for orders, coming on for pronouncement this day, the Court pronounced the following:

ORDER

Petition is of the year 2012.

Heard finally.

This petition is under Article 226/227 of the Constitution of India assailing order dated 26.09.2011 (Annexure P/7) whereby Collector, Singrauli pursuant to the direction issued to him to decide the representation of the petitioners, passed an order observing therein though the schools in which petitioners were posted were not approved by the

competent authority to run under the scheme of Madhya Pradesh Education Guarantee Scheme (hereinafter referred to as 'Scheme'), therefore, appointment made in those schools cannot be considered to be valid and no order for allowing the petitioners to continue in service as Guruji can be passed. However, Collector in his order has found that though the schools were being run without any prior approval but petitioners have performed their duties, as such, they should be paid honorarium for the said period.

The petitioners have claimed that they have performed their duties for so many years and Panchayat has already given the proposal to open the said schools under the Scheme and therefore, there is no reason for not paying the honorarium to the petitioners and to discontinue them from the post of Guruji.

Respondents have filed their reply stating therein that as per the order dated 17.09.2012 (Annexure R/1), it is mentioned that schools under the Scheme can be run only when those schools are approved by the said project office but no approval was granted to the schools herein and therefore, teachers working therein as Guruji cannot be said to be validly appointed and cannot be declared eligible to get honorarium. The respondents have also filed the documents which is part of the Scheme which provides that merely after getting approval to run the schools, Gurujis appointed therein cannot be allowed to perform their duties unless they have completed the training required for Guruji.

It is stated by the respondents that in the present case, since there was no approval, as such petitioners have not been sent on training.

Considering the submissions made by learned counsel for the parties and on perusal of the record, I am of the opinion that the schools in which petitioners have been performing their duties as Guruji since not found approved as per the required provisions mentioned under the Scheme, the appointment of petitioners cannot be said to be a valid appointment and therefore, honorarium if any cannot be directed to be paid to them. However, Collector, Singrauli has already passed an order dated 26.09.2011 (Annexure P/7) observing therein that the petitioners have performed their duties as Guruji in the schools which were not approved and no permission to run the schools were granted, therefore, I am of the opinion that direction to allow the petitioners to perform their duties in the concerned schools cannot be passed because schools have not been approved by the competent authority under the Scheme. Although, duties have been performed by the petitioners for the period as has been considered by the Collector in his order and directed that honorarium be paid to the petitioners, the said order has never been assailed and set aside by any of the authority, therefore, I am disposing of this petition directing respondent No.8 to comply with the order passed by the respondent No.3 and if petitioners have not been paid honorarium as per the prevalent rate for the period they have performed their duties, the same be paid to them. If it is already paid then no further payment is required to be made to them. It is also the duty of the Collector (respondent No.3) to see whether order passed by his predecessor on 26.09.2011 has been complied with or not. If not complied, make all endeavours to get it complied and make payments to the petitioners.

With the aforesaid, the petition is **disposed of**.

(SANJAY DWIVEDI)
JUDGE

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