

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

L.P.A. No. 334 of 2024

The State of Bihar, through the Secretary, Water Resources  
Department, Patna (Bihar) ..... Appellant

Versus

1. State of Jharkhand
2. The Principal Secretary, Human Resources Development  
Department, Government of Jharkhand, Ranchi
3. The Principal Secretary, Water Resources & Development  
Department, Government of Jharkhand, Ranchi
4. The Chief Engineer, Water Resources & Development  
Department, Medininagar, Palamau
5. The Superintending Engineer, Auranga Construction Circle,  
Water Resources & Development Department, Medininagar,  
Palamau
6. The Superintending Engineer, Barrage Construction Circle,  
Kadhawan, Garhwa Camp, Medininagar, Water Resources &  
Development Department, Medininagar, Palamau
7. The Executive Engineer, Planning & Monitoring Division,  
Medininagar, Palamau
8. The Executive Engineer, Auranga Construction Circle, Water  
Resources & Development Department, Medininagar, Palamau
9. The District Education Officer, Medininagar, Palamau
10. Sudhir Prasad, S/o Ram Lalan Singh, R/o Village-Kharuwara,  
P.O.-Chero, P.S.-Harnout, District-Nalanda (Bihar), presently  
working as Assistant Teacher, Uttar Koyal High School, Mandal,  
P.S.-Barwadih, District-Latehar
11. Ramesh Chandra Pandey, S/o Hari Krishna Pandey, R/o Village-  
Sarodih, P.O.-Dhodihan, P.S.-Kargahar, District-Rohtas (Bihar),  
presently working as Headmaster, Uttar Koyal High School,  
Mandal, P.S.-Barwadih, District-Latehar
12. Balwant Singh, S/o Lachman Singh, R/o Village-Chakia, P.O. &  
P.S.-Beriya, District-Balia (Uttar Pradesh), presently working as  
Assistant Teacher, Uttar Koyal High School, Mandal, P.S.-  
Barwadih, District-Latehar
13. Harihar Nath Pandey, S/o Sri Ram Kishore Pandey, R/o Village-  
Uchari, P.O. & P.S.-Majhiaon, District-Garhwa, presently working  
as Assistant Teacher, Uttar Koyal High School, Mandal, P.S.-  
Barwadih, District-Latehar
14. Ram Vijay Sharma, S/o Somwati Sharma, R/o Village-Naodiha,  
P.O.-Dara Nagar, P.S.-Nauhatta, District-Rohtas (Bihar),  
presently working as Assistant Teacher, Uttar Koyal High School,  
Mandal, P.S.-Barwadih, District-Latehar
15. Trilokinath Lohra, S/o Sukhdeo Lohra, R/o Niche Lodapat  
(Korwadera), P.O.-Jobhipat, P.S.-Bisunpur, District-Gumla,  
presently working as Peon, Uttar Koyal High School, Mandal,  
P.S.-Barwadih, District-Latehar ..... Respondents

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**CORAM**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Appellant: Mr. S.P. Roy, G.A. (Bihar)  
For the Res.-State: Mr. Ratnesh Kumar, S.C. (L&C)-I  
For Res. Nos. 10 to 15: Mr. Amit Kumar Tiwari, Advocate

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07/12.05.2026

1. Heard learned counsel for the parties.
2. This appeal is directed against the learned Single Judge's order dated 02.04.2024 allowing W.P. (S) No. 2933 of 2014 instituted by the respondents, whereby the appellant i.e., the State of Bihar was directed to release the amount of salary including benefits of pay revision for the period between 01.01.1999 and 2007 together with interest @ 6% per annum.
3. Mr. S P Roy, learned counsel for the appellant, forcibly submitted that the correspondence on record shows that the employees of the North Koyal Project High School, Mandal, Latehar, were never regularised and were only daily wagers. Therefore, he submits that there was no question of such teachers being entitled to payments on regular scale.
4. Mr. S P Roy was unclear about whether or not he was pressing the defence that was taken in the writ petition and it seems to be the only defence that was seriously pressed before the learned Single Judge i.e., the school at Mandal was closed or was not functioning according to the letter dated 24.03.2000, which was produced along with the counter affidavit. In any event, since that appears to be the only defence, which was taken and pressed before the learned Single Judge, we propose

to deal with the said defence, as if, the same has now been urged as a ground in support of this appeal.

5. Mr. Ratnesh Kumar, learned S.C. (L&C)-I appearing on behalf of the State of Jharkhand, supported the impugned order based on the reasoning reflected therein. He submits that up to 2007, the school in question was under the control of State of Bihar and there was no justification for the State of Bihar for not releasing the salary and other payments for its teachers. He submits that after 2007, the State of Jharkhand has assumed full responsibility and has been paying the salary and other benefits to the employees. Accordingly, he submits that this appeal may be dismissed.
6. Mr. Amit Kumar Tiwari, learned counsel for the teachers i.e., the original petitioners in W.P. (S) No. 2933 of 2014 also urged dismissal of this appeal. He submits that in any event, there is some dispute between the States of Bihar and Jharkhand and the petitioners, who are Class-III and Class-IV employees and have now retired and are old and ailing, should not be made to suffer any further. He also urges that this appeal may be dismissed and payments, as directed, made at the earliest.
7. The rival contentions now fall for our determination.
8. At the outset, we note that the State of Bihar has pressed its might in this appeal only with an attempt to deprive six Class-III and Class-IV employees of certain financial benefits awarded to them by the learned Single Judge's order. This is quite unfortunate.

9. From the dispute raised, it does appear that no serious fault is sought to be attributed to the Class-III and Class-IV employees, who have by now retired and are old and ailing, as observed by the learned Single Judge in the impugned order, but the dispute is between the States of Bihar and Jharkhand regarding the liability to pay. In such a situation, it is not quite fair that the employees' misery is prolonged any further. The argument about these employees not being regularised or being daily wagers was sought to be supported by referring to a communication dated 03.06.2013 by the Executive Engineer, Auranga Construction Circle, Palamau. Based upon such a correspondence, there is no question of sustaining such a plea.
10. Crucially, the plea about non-regularisation or that the employees being daily wagers was never raised before the learned Single Judge and finds no reflection in the impugned order dated 02.04.2024. Usual argument about the plea being raised, but still not being reflected, cannot be countenanced. If there is any merit on such a plea, there is a procedure for having the omission rectified before the same Court/Judge. Admittedly, that procedure was never followed and therefore even raising of such a plea appears to be some desperate attempt to prolong the misery of six Class-III and Class-IV employees. The only plea which was raised, pressed and seriously argued, has been reflected in paragraph No. 6 of the learned Single Judge's impugned order. Paragraph No. 6 and plea therein are transcribed below for the convenience of reference:

**"6. Mr. S.P. Roy, learned counsel representing State of Bihar submits that in view of letter dated 24.03.2000**

**(Annexure-R/10-B to the counter affidavit), it can be very safely assumed that the School in question was closed and it was not in existence and as such, there is no question of payment of salary etc. to the teaching and non-teaching staff working there. It has further been argued that it was the officers of the State of Jharkhand who made a communication to the State of Bihar not to release any fund for payment of salary to the teaching and non-teaching staff of the School in question since the school itself was already closed down.”**

11. The issue whether the school in question was closed down or was not in existence during the relevant period i.e., from 01.01.1999 to 2007 is an entirely factual issue. Learned Single Judge spent considerable time in ascertaining the truth regarding this assertion, which was made on behalf of the State of Bihar. The discussions in paragraph Nos. 7 & 8 show that the learned Single Judge, based upon valid material, concluded that this plea of the State of Bihar was false and that the school in question was very much in existence and functioning during the said period.
12. Paragraph Nos. 7 & 8 of the impugned order are transcribed below for the convenience of reference:

**“7. Having heard the rival submission of the parties across the bar, this Court is of the considered view that petitioners are entitled for arrears of salary for the periods in question i.e. from 01.01.1999 to 2007 for the following facts and reasons:-**

- (i) **From the enclosures to the counter affidavit as well as specific averments made in the writ petition as well as rejoinder to the counter affidavit filed by the petitioners, it can very comfortably be inferred that the school was running from the year 1999 to 2007. The stand of the respondents – State of Bihar that never any communication was made to the erstwhile State of Bihar regarding functioning of the School, is not accepted to this Court in view of documents annexed with the writ petition as well as rejoinder to the counter affidavit. One of the documents annexed**

in the rejoinder which is not being disputed by the respondent – State of Bihar regarding examination held by the Bihar School Examination Board and the students appearing in the said school. The said document clearly shows that right from the year 1999 till date, the students have been appearing and their names have been recommended to appear in the examination and the same have never been disputed. This Court comes to the finding that if the school was not in existence, how the students appeared as a regular student and also as a private student as well as ex-students. This shows that the school was very much in existence and the teaching and nonteaching staff were also working.

- (ii) This writ petition was filed in the year 2014. This Court after hearing the parties at length, vide its order dated 14.05.2018, directed the State of Bihar to furnish satisfactory reply to the averments made in Annexure-E to the counter affidavit filed by the State of Jharkhand within a specified period of four weeks. Never it was in dispute that the School was not in existence rather this Court observed that the dispute was regarding non-payment of salary to the petitioner for a specific period and as to who is liable to make the payment for the period in question.
- (iii) In view of settled proposition of law, settled up to Hon'ble Apex Court on the basis of "as is where is", very clearly and honestly the State of Jharkhand took initiative for payment of salary etc. from the year 2007 itself. At least the State of Bihar would have taken initiatives and followed fair stepson their part for payment of salary etc. for the period in question as the school was in their direct control and supervision.
- (iv) The arguments advanced by learned counsel appearing on behalf of the State of Bihar is totally misconceived. It has been argued by Mr. S.P. Roy, learned counsel that never any communication was made to the State of Bihar and the State of Jharkhand was to look after the affairs of the matter as the school was situated within their domain.

8. Previously, after hearing the parties at length, this Court directed the State of Jharkhand to come up with specific affidavit whether the school was functioning or not. The matter was inquired at length and the enquiry report has been furnished to this Court which clarify that the school

**was very much functional. The high-ranking officer of the State of Jharkhand – Principal Secretary, Water Resources Department cannot be disbelieved. Pain has been taken to get the matter inquired and, thereafter, the same has been furnished and is on Board, copy of the same was handed over to learned counsel representing State of Bihar. In spite of specific directions, instead of making payment, the State of Bihar has chosen to challenge the interim order. They are at liberty to challenge the same, no one can stop them from challenging the order. The Executive Engineer of the State of Bihar was physically present before this Court and an undertaking was given by the said officer for making payment. This Court fails to understand that when a responsible officer of the State has already realized that the payments have to be made and thereafter the matter was adjourned, a 'U' Turn has been taken by the respondent – State of Bihar, which is not at all appreciated by this Court. The petitioners who have already retired and are old and ailing, are still awaiting for arrears of their salary. In a welfare State, if such type of thing happens, it is completely slur on part of the State."**

13. Learned counsel for the State of Jharkhand and the employees have asserted how the school was very much in existence and functioning. The material on record supports this assertion. The finding of learned Single Judge on this issue is backed by the relevant material. Therefore, learned counsel for the appellant was not too sure about raising such a plea before us.
14. Thus, it is clear that the plea of the employees being daily wagers or unregularized is quite frivolous and therefore was not even raised before the learned Single Judge. Similarly, the plea about the closure or non-existence of the school in question during the relevant period, upon examination, was found to be false and frivolous. The learned Single Judge has correctly observed that the original petitioners were Class-III and Class-IV employees, who have already retired and are old and ailing.

Accordingly, they cannot be made to wait indefinitely for arrears of their salary and such an approach cannot be appreciated.

15. We are satisfied that there is no good ground to interfere with the learned Single Judge's impugned order.
16. There is no error, either on facts or in law, in granting the limited relief to the original petitioners. The resistance by the State of Bihar or the attempt to push the liability on the State of Jharkhand even for the period during which the State of Bihar was controlling the school in question, cannot be appreciated.
17. For all the above reasons, we dismiss this appeal without any order for costs.
18. The State of Bihar must, within four weeks from today, pay all the dues to the original petitioners/their legal representatives, as directed by the learned Single Judge's impugned order. If there is any difficulty in payment, the amount should be deposited in this Court within four weeks from today after due intimation to learned counsel for the writ petitioners.
19. If this direction is now not complied with and the original petitioners are forced to file or pursue the contempt petition, which they have already filed, we have to consider whether the officials responsible for the delay, would have to be made personally liable for payment of interest on account of the delay.

**(M. S. SONAK, C.J.)**

**(RAJESH SHANKAR, J.)**