

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20975 of 2013

Kalikant Jha S/O Lat Jai Govind Jha Resident of Village Dhaga, Pehhawari
Tola, P.O. Kaluahi, P.S. Arer, District Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Human Resource Development, Government of Bihar, Patna
2. The Principal Secretary, Department Of Higher Education, Government Of Bihar, Patna.
3. The Additional Commissioner, Department Of Human Resource Development, Government Of Bihar, Patna.
4. The Chairman, Maithili Academy, Flat No. 740/800, Lal Bahadur Shashtri Nagar, Patna.
5. The Director-Cum-Secretary, Maithili Academy, Flat No. 740/800, Lal Bahadur Shashtri Nagar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s K.N.Choubey, Sr. Advocate Ambuj Nayan Chaubey Ashok Kumar Garg, Advocates
For the State	:	Mr. Manoj Kumar, AC to GP 4
For the Respondent Nos. 4 and 5	:	M/s J.N.Thakur, Advocate

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 30-01-2026

1. The petitioner has filed the instant application for the following relief:

“(i) For issuance of an appropriate Writ/order/direction including a Writ in the nature of certiorari for quashing the premature order of retirement of the petitioner (Annexure-1) and for



issuance of a Writ in the nature of mandamus commanding the respondents to forthwith pay the admissible retiral dues fixed on the basis of his emoluments payable on the due date of retirement and arrears of salary as per the sixth pay revision along with suitable interest thereon to the petitioner;

(ii) For grant of such other relief/reliefs as the petitioner may be found entitled to in the facts and circumstances of the instant case.

2. The case of the petitioner in brief as stated in the Writ petition is that he worked as a Peon in *Maithili Academy, Patna*. While so employed, he was arbitrarily ordered to retire from service with effect from 31.12.2006, vide Letter No. 06/07 dated 03.01.2007 issued by the Chairman-cum-Director, Maithili Academy. It is stated that the impugned order was passed without issuance of any notice and without any proceeding for



determination of the petitioner's age, thereby violating the principles of natural justice. According to the petitioner, he was entitled to continue in service till 31.01.2010, as evident from the letter dated 08.03.2002 addressed by the Director-cum-Secretary, Maithili Academy to the Joint Secretary - cum - Director, Department of Higher Education, Government of Bihar.

3. It is contended that the order of retirement was not based on service records but on the subjective opinion of the respondents formed on the basis of petitioner's appearance, which is arbitrary and illegal. Despite repeated representations, since January, 2007, no decision has been taken by the respondents. It is further stated that the petitioner was paid only half of the salary during his service period and a substantial amount, including arrears of salary, gratuity, provident fund, leave encashment and other retiral dues, remains unpaid. Though the Academy sought release of funds from the Government for payment of retiral dues, the petitioner's dues were shown



inaccurately and incompletely. It is submitted that similarly situated employees were paid their retiral dues, whereas the petitioner's claims have been illegally withheld. Having no alternative efficacious remedy, the petitioner has approached this Hon'ble Court.

4. A detailed counter affidavit was filed on behalf of respondent nos. 2 and 3. The Learned counsel for the respondents submits that the reliefs sought in the Writ petition are ambiguous as the petitioner has simultaneously challenged the order of retirement dated 03.01.2007 (Annexure-1) and has also sought payment of retiral dues after revision of pay as per the Sixth Pay Commission.

5. It is submitted that the petitioner retired from service with effect from 31.12.2006 by the impugned order dated 03.01.2007. The Writ petition was filed after an inordinate delay of nearly six years, without any explanation. On this ground alone, the Writ petition is liable to be dismissed on account of delay and laches.

6. In support of the aforesaid



contention, the Learned counsel for the petitioner has relied upon the judgments of the Hon'ble Supreme Court in **(1) (2014) 4 SCC 1088, Chennai Metropolitan Water Supply and Sewerage Board & Ors. vs. T.T. Murali Babu;** and (2) **(2006) 4 SCC 322, Karnataka Power Corporation Ltd. vs. K. Thangappan & Anr.**, to contend that a Writ court, while exercising jurisdiction under Article 226 of the Constitution of India, may refuse to entertain stale claims.

7. It is further submitted that similarly situated employees of the Academy have already approached this Hon'ble Court for payment of retiral dues. In particular, reliance is placed upon the judgment dated 25.09.2014 passed in *C.W.J.C. No. 15038 of 2009 (Ugra Nath Jha vs. The State of Bihar & Ors.)*, wherein the Writ petition was dismissed with liberty to the said petitioner to approach the Civil Court for recovery of dues, after taking note of the fact that Maithili Academy is "State" within the meaning of Article 12 of the Constitution of India.



8. The Learned counsel further submits that Maithili Academy was established pursuant to Government Resolution contained in Memo No. 876 dated 11.03.1975 as a "Society" registered under the Societies Registration Act, 1860, to preserve and promote Maithili language and literature, and that it functions as per the rules mentioned in the memorandum of association. Bare perusal of the by-laws of the Academy would reveal that there is no provision for pension, gratuity, leave encashment or other retiral benefits to be payable to its employees. The petitioner has deliberately not brought these by-laws on record.

9. It is further submitted that since none of the employees of the Academy are Government employees, they are entitled for honorarium, which cannot be revised as per the different recommendation of the Pay Commission. In this regard, the department has taken opinion from the Law Department, Government of Bihar, wherein it was opined that the State Government is under no obligation to release grants in aid to



the academy for payment of gratuity and Leave Encashment to its retired employee. The Learned counsel further submits that although the State Government releases annual grants-in-aid to the Academy for meeting the expenses of the institute it cannot be burdened with the responsibility to pay pension, gratuity or leave encashment to the employee of the academy.

10. It is further submitted that the Law Department, Government of Bihar, has categorically opined that the State Government is under no legal obligation to release grants-in-aid for payment of gratuity or leave encashment to retired employees of the Academy. In this context, the Learned counsel has drawn attention of this Court towards paragraph Nos. 23 and 24 of the counter affidavit which read as follows:

“23. That it is stated that the department has taken opinion from the Law Department, Government of Bihar on the issue as to whether the State Government is liable to release grants in aid to the academy in question for payment of gratuity and Leave



Encashment to its retired employee.

24. That it is stated that the Law Department, Government of Bihar has opined in no uncertain terms that the State Government is under no obligation to release grants in aid to the academy in question particularly for payment of gratuity and Leave Encashment to its retired employee as the State Government has not given any approval for such payment."

11. The Learned counsel for the respondents has also placed reliance upon the judgment of the Hon'ble Supreme Court dated 30.01.2019 passed in *S.L.P.(C) No. 18502 of 2018 (State of Bihar & Anr. vs. Dr. Sachindra Narayan & Ors.)* relating to *A.N. Sinha Institute of Social Studies, Patna*, wherein it has been held that employees of autonomous societies cannot be treated at par with Government employees and the State cannot be burdened with payment of retirement benefits. It is submitted that the said ratio squarely applies to the present case.

12. Accordingly, Learned counsel for



the respondents prays for dismissal of the Writ petition as being time barred not maintainable, and devoid of merits.

13. Heard the Learned counsel for the petitioner and Learned counsel for the respondents and perused the materials available on record.

14. This Court finds that the petitioner has approached this Court, after an inordinate and unexplained delay from the date of the impugned order of retirement. In the absence of any satisfactory explanation, the petitioner is not entitled to any discretionary relief under Article 226 of the Constitution of India.

15. This Court further finds that *Maithili Academy* is a society registered under the Societies Registration Act, 1860, which is governed by its own memorandum of association and by-laws. However, the grant-in-aid released by the State Government is meant only for meeting establishment and functional expenses of the academy and does not create any obligation upon the State Government to bear retiral liabilities of



the Academy. The employees of such institute cannot be treated at par with the employees of the State Government nor the State can be burdened with the responsibility to pay pension to the employee of the academy.

16. Apart from that as per the submission made by the Learned counsel for the Maithili Academy, the Academy is no more in existence, hence the question of directing the academy to pay the retiral benefits from the fund of the State Government would not arise.

17. In view of the above, the Writ petition is dismissed as devoid of merit.

18. Interlocutory Application(s), if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2026
Transmission Date	

