

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.932 of 2014
IN
Civil Writ Jurisdiction Case No. 21035 of 2011**

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Dilip Kumar Rajak (Mukhiya), S/o Late Namo Lal Rajak, Gram Panchayat Raj, Bhagwatpur, Resident of Village Bhagwatpur, P.S. Sarai Ranjan, District Samastipur.

.... Respondent-Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Govt. of Bihar, Patna.
2. The Director, Primary Education Govt. of Bihar, New Secretariat, Bailey Road, Patna.
3. The District Magistrate, Samastipur.
4. The District Teacher Employment Appellate Tribunal, Samastipur through its member.
5. The District Education Officer, Samastipur.
6. The District Programme Officer (Establishment), Samastipur.
7. The Block Development Officer, Sarairanjan, Samastipur.
8. The Block Education Officer, Sarairanjan, Samastipur.
9. The Panchayat Secretary, Gram Panchayat Raj, Bhagwatpur, Samastipur.
10. The Bihar School Examination Board through its Secretary, Sinha Library Road, Patna.
11. Pratima Kumari W/o Sri Gagan Kumar Mishra, R/o Village and Post Harilochanpur, P.S. Sarairanjan, District Samastipur.

... Respondents-Respondents.

12. Meena Kumari W/o Mahesh Jha R/o Village Harilochanpur, P.S. Harilochanpur, Via Sarairanjan, District Samastipur.

.... Petitioner- Respondent/s

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Appearance :

For the Appellant	:	Mr. Balram Kapri, Advocate
For the Respondent-State	:	Mrs. Namrata Mishra, G.A.-13
For the Respondent-Board	:	Mr. Satyabir Bharti, Advocate
For the respondent no.11	:	Mr. Kaushal Kumar Jha, Advocate
For the respondent no.12	:	Mr. Amarendra Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-07-2015

This appeal is preferred by the 9th respondent in CWJC

No.21035 of 2011 feeling aggrieved by the order dated 13.01.2014

passed therein.

The relevant facts are as under:

The 12th respondent herein by name Meena Kumari (for short, the respondent) was appointed as Panchayat Teacher on 16.01.2007 by the appellant, the Mukhiya of the Gram Panchayat, Bhagwatpur, Samastipur District. Shortly, thereafter, i.e. on 26.11.2007, the appellant dismissed the 12th respondent from service on the ground that the certificate produced by her in proof of holding Basic Teachers' Training, is not valid. Initially, the respondent exhausted the remedy of appeal before the District Teachers Employment Appellate Tribunal, Samastipur (for short, 'the Tribunal'), but unsuccessfully and ultimately she filed the writ petition. It was pleaded that the institution, which issued the certificate has valid recognition, when the respondent studied, and that the order of removal was passed without issuing any notice to her. The writ petition was opposed by the appellant as well as other respondents therein.

Learned Single Judge has undertaken extensive verification of the records and ultimately found that the institution which issued the certificate to the respondent was very much under recognition, when she studied and accordingly allowed the writ petition. A direction was issued to the effect that since the appellant

has caused undue harassment to the teacher, arrears of salary shall be recovered from the appellant. This appeal is preferred challenging that portion of the order, which directed recovery of arrears of salary from the appellant.

Heard Sri Balram Kapri, learned counsel for the appellant, Smt. Namrata Mishra, learned Government Advocate-13 for the respondent-State, Sri Kaushal Kumar Jha, learned counsel for the respondent no.11 and Sri Amarendra Kumar, learned counsel for the respondent no.12.

In the State of Bihar, there is strange practice of conferring power of appointment of teachers, on the Mukhiya of the Panchayats. Naturally, the power of removal is also conferred upon them. Experience has only shown that the appointments or disciplinary proceedings are initiated in such cases mostly on political considerations, or on the personal whims and fancies of the Mukhiya. The case, on hand, presents an example.

Normally, the certificate of qualification is required to be verified at the time of appointment or permitting the selected candidates, to join the duty. It was only on verification of the record, that the respondent was appointed as teacher on 16.01.2007 by the appellant himself. In case, he doubted the genuinity of the certificate, he ought to have issued notice to the respondent and then taken



further action. However, he passed order dated 26.11.2007 dismissing the respondent from the post of teacher straightaway. The respondent had to pursue various remedies, even while remaining out of employment. But for the highhandedness of the appellant, the teacher would not have been put to such hardship. Further, the students are also deprived of the instructions of a teacher. Taking these aspects into account, the learned Single Judge directed that the arrears of salary for the respondent shall be recovered from the appellant.

We would have shown some indulgence to the appellant by taking the view that he may have taken the step, not being conversant with the law. However, he aggravated the situation by pursuing the proceedings against the respondent in a vindictive manner. He filed CWJC No.5067 of 2015 challenging the very appointment of the respondent on certain other grounds. An order was passed on 15.04.2015 by this Court, and based upon that the appellant got issued orders dated 30th April, 2015 by the District Programme Officer. It is brought to our notice that the salary of the respondent is stopped.

Under these circumstances, we do not find any merit in the appeal. We dismiss the same and further direct that the appellant shall not be entrusted with any power of appointment of or

disciplinary proceedings against, the teachers in the Panchayat.

The salary of the respondent shall be paid notwithstanding the proceedings dated 30.04.2015 issued by the District Programme Officer, (Establishment) Samastipur, unless her appointment has been cancelled by any competent authority in accordance with law. If any appointments in the Schools within the concerned Panchayat are to be made, the District Programme Officer shall have the power to do so. We also direct that no complaint, whatever that may have been made by the appellant herein against the 12th respondent shall be entertained by anyone.

Interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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