

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8684 of 2015

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Sheo Kumar Sharma Son of Late Mogal Sharma resident of village -
Birpur, Police Station - Birpur, District - Begusarai Petitioner
Versus

1. The State of Bihar
 2. The Principal Secretary, Education Department, Government of Bihar,
Patna
 3. The Director, Primary Education, Government of Bihar, Patna
..... Respondents
- =====

Appearance :

For the Petitioner : Mr. YB Giri, Sr Advocate & RK Yadav, Advocate

For the Respondents : Mr.SK Singh, AC to AAG 10

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH
ORAL ORDER

4 08-12-2015 The petitioner is aggrieved by order dated 18.5.2015,
passed by the director, Primary Education (respondent no.3),
whereby he has been put under suspension as well as his
headquarters has been fixed at Araria in the office of District
Education Officer, though the disciplinary proceeding is
continued at Darbhanga.

Before I consider the ground of challenge it would be
necessary to notice the facts in brief.

The petitioner being a Block Education Officer made
certain appointments. His submission is that the appointments
were made in pursuance of direction of this Court and he did
not make any irregularity in making the appointment. However,
for the reasons best known to the department, it served charge
memo on 13.12.2014 by order of respondent no.3, which is
contained in Annexure 11. Thus the case of the petitioner is that



no notice for appearing in the departmental proceeding was ever served upon him. He further submits that the department instead of fixing a date for appearance in the proceeding five months later issued order dated 18.5.2015 putting him under suspension and fixing his headquarters at Araria. The petitioner has made grievance regarding his posting at Araria. So far as fixation of headquarter is concerned, authorities while issuing charge memo did not find it expedient to suspend the Petitioner. However, after four and half months they have passed the suspension order on the premises that it is the petitioner who is not co-operating in the proceedings. Learned counsel submits that this is entirely false that as no notice to appear in Departmental proceedings was served upon the petitioner. So far as fixation of headquarter is concerned he submits that he was posted at Lakhisarai when the departmental proceedings was initiated. The proceeding has been fixed at Darbhanga, whereas the headquarter is fixed by Araria.

Counsel for the State has justified the impugned actions and submitted that the petitioner did not co-operate in the proceeding so he was put under suspension.

I have heard learned counsel for the parties.

There is a claim and counter claim with respect to cause of delay in the proceedings. The assertion of the petitioner is that there was no notice for personal appearance. As suspension

is no punishment, I am not inclined to interfere with the order of suspension in view of the divergent claims of the parties. However I direct that if the departmental proceedings are not concluded within the period of 6 months from the date of receipt of this order, the proceeding would stand automatically revoked. So far as the second issue is concerned the continuation of proceeding at Araria is unreasonable and unfair. The petitioner at the time of initiation of departmental proceeding was posted at Lakhisarai. In such circumstances, his Headquarter could be fixed at Darbhanga, or Lakhisarai, or any place nearer, to facilitate equal opportunity to the petitioner to defend his case reasonably. In this view of the matter, the part of order fixing his headquarter at Araria, ought to be recalled and as such is set aside. The respondent no. 3 would issue fresh order fixing his headquarter accordingly, within a period of 10 days posting of the petitioner at aforesaid places from the date of receipts of a copy of this order.

The writ petition is accordingly disposed of.

(Samarendra Pratap Singh, J)

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