

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8817 of 2015

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1. Mamta Kumari 'Madhu' W/o Sri Ram Kishpre Pd. Mahto, Resident of village- Baure Raipur, P.S.- Raipur, District- Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department
 2. The District Programme Officer, (Establishment), Sitamarhi
 3. District Education Officer, Sitamarhi
 4. Executive Officer, Nagar Panchayat, Bairganiya, Distt.- Sitamarhi
 5. Sri Raghunandan Sahni, Son of Late Ganesh Sahni, resident of village- Pratap Nagar Ward No. 7, Near SSV Camp, PS- Sitamarhi, District- Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar
 For the Respondent/s : Mr. GA3

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 16-12-2015 The petitioner seeks quashing of the order dated 20.5.2015 of the District Programme Officer, Establishment, Sitamarhi addressed to the Member Secretary, Nagar Niyojan Ekai Samiti cum Executive Officer, Nagar Panchayat, Bairganiya directing him to terminate the services of the petitioner as Teacher Primary School, Sinduriya within Sitamarhi Nagar Panchayat, Bairganiya.

The petitioner submits that the impugned order is without jurisdiction, inasmuch as the Member Secretary, Nagar Niyojan Ekai Samiti on his own cannot terminate the appointment of the petitioner without recommendation of Nagar Niyojan Ekai Samiti. He further submits that similarly the District Programme Officer



does not have jurisdiction to issue such direction. The impugned order has been passed on the ground that the petitioner has obtained teacher's training certificate from Nepal. He submits that even if the certificate is discounted, the same would not be of any consequence as the training certificate is not an essential qualification for appointment to the post of Primary Teachers as per Rule 9 of the Bihar Panchayat Primary Teacher (Employment and Condition) Rules, 2005.

It appears from Annexure-A to the counter affidavit that pursuant to the order dated 20.5.2015, the Executive Officer, Nagar Panchayat cum Member Secretary, Nagar Niyojan Ekai, Bairganiya has terminated the services of the petitioner in view of the direction of the District Programme Officer.

Counsel for the State submits that the superior authority can definitely issue necessary guidelines with respect to administration of the school and conduct of the employees and teachers.

There cannot be any dispute that a superior authority can issue necessary guide lines for efficient running of administration as well as with respect to guiding principles governing the conduct of the employees and staffs; but, nonetheless, when a statutory power is vested in an authority, the same has to be exercised independently without being influenced by the orders of the

superior authority. The appointing authority can take clue from the guide lines but nonetheless he has to make his own independent decision in the matter. The same having not been done, the impugned order, dated 20.5.2015 passed by the Executive Officer, Nagar Panchayat cum Member Secretary, Nagar Niyojan Ekai, Bairganiya is in teeth of statutory provisions and is accordingly set aside. The matter is remitted to the Member Secretary, Nagar Niyojan Ekai Samiti cum Executive Officer, Nagar Panchayat, Bairganiya to proceed afresh in the matter in accordance with law.

The writ application is, accordingly, allowed.

(Samarendra Pratap Singh, J)

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