

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.549 of 2012

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1. Kanchan Kumari W/O Sri Sunil Kumar Resident of Village- Phulwariya, Police Station- Gwalpara, District- Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Director, Primary Education, Human Resources Development Department, Government of Bihar, Patna
4. The District Superintendent of Education, Purnea.
5. The Member, District Teacher Employment Appellate Tribunal, Purnea.
6. The Block Education Officer, B. Kothi, Purnea.
7. The Panchayat Secretary, Gram Panchayat Raj, Nathnagar, B.Kothi, Purnea
8. The Headmaster, Middle School, Hanuman Nagar (Kh), District- Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha-3

For the Respondent/s : Mr. Md.Raisul Haque, S.C.10

Mr. Md.Obaidullah, A.C. to S.C.10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 25-07-2016

Heard Mr. Satish Chandra Jha, learned counsel for the petitioner and Mr. Md. Obaidullah, A.C. to S.C.10 for the State.

The petitioner has questioned the order bearing Memo No. 17 dated 21.12.2010 passed by the Panchayat Secretary, Gram Panchayat, Nath Nagar, Barharha Kothi in the district of Purnea whereby the selection process initiated for appointment of Panchayat Teachers has been set aside and directions were issued for not obtaining the services of the concerned teachers i.e. petitioner and others. The petitioner questioned the order in appeal before the

District Teachers Employment Appellate Authority, Purnea and which appeal has been dismissed by the order dated 31.3.2011. The petitioner being aggrieved is before this Court.

Mr. Jha learned counsel for the petitioner with reference to the order of cancellation of the selection process passed by the Panchayat Secretary impugned at Annexure-2 as well as its affirmation by the appellate authority impugned at Annexure-1 has submitted that the order is founded on a time frame present in the guidelines of the Human Resources Department bearing Memo No.1088 dated 31.8.2010. Mr. Jha has invited the attention to the Court towards the guidelines dated 31.8.2010, a copy of which is enclosed at Annexure-5 to the writ petition to submit that it is only such of the appointment letters which were issued subsequent to 14.8.2010 which were held illegal and since the appointment order of the petitioner present at Annexure-3 was issued on 14.8.2010 hence it was protected under the same very guidelines of the Human Resources Department dated 31.8.2010. He submits that the orders impugned in the circumstances present, are without application of mind and de hors the guidelines.

A counter affidavit has been filed on behalf of the respondents and with particular reference to the statement made in para 5 it is submitted by learned State counsel that since the documents required to be deposited by the petitioner were not deposited within time thus

the termination.

In my opinion, the explanation given by the respondents in paragraph 5 of the counter affidavit to support the impugned action is only noticed to be rejected because it runs counter to the stipulation present in the guidelines dated 31.8.2010 which in no uncertain terms mentions that it is only such of the appointment orders which are issued beyond the dates mentioned in the guidelines, that were held illegal and since in so far as Panchayat Teachers are concerned, since the dates fixed for issuance of appointment letters is 13.8.2010 and 14.8.2010 and since the appointment letter of the petitioner was issued on 14.8.2010, thus there was no infirmity for any interference.

For the reasons aforementioned, the order passed by the Panchayat Secretary impugned at Annexure-2 as well as its affirmation by the appellate authority vide Annexure-1 are held to be de hors the guidelines dated 31.8.2010 and are accordingly quashed and set aside. The writ petition is allowed. The consequences shall follow.

(Jyoti Saran, J)

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