

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 22 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 16160 of 2013

Block Development Officer, Khushroopur, District-Patna

.... Appellant/s

Versus

1. Sunita Kumari W/O Arun Kumar Yadav Resident Of Village- Baikatpur (Krishnauta Tola), P.O.- Baikatpur, P.S.- Khushroopur, District- Patna
2. The State Of Bihar through the Principal Secretary, Department Of Education, Govt. Of Bihar, New Secretariat, Patna
3. The Director (Primary Education), Department Of Education, Govt. Of Bihar, Patna
4. The Regional Deputy Director (Education), Patna Division, Patna
5. The District Education Officer, Patna
6. The District Magistrate-Cum-Collector, Patna
7. The District Programme Officer (Establishment), Patna District, Patna
8. The District Teachers Employment Appellate Tribunal, Patna through its Secretary, Computer Bhawan, Government Girls High School Campus, Bankipur, District- Patna
9. The Member Secretary-Cum-Block Development Officer, Block Teachers Employment Committee Khushroopur, District- Patna
10. The Block Education Officer, Khushroopur, District- Patna
11. The Incharge Headmaster, Upgraded Middle School, Baikatpur Tola Khushroopur, Distt- Patna

.... Respondent/s

With

Letters Patent Appeal No. 121 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 16160 of 2013

1. The State Of Bihar through The Principal Secretary, Department Of Education, Government Of Bihar, New Secretariat, Patna.
2. The Director (Primary Education), Department Of Education, Government Of Bihar, Patna.
3. The Regional Deputy Director (Education), Patna Division, Patna.
4. The District Education Officer, Patna.
5. The District Magistrate-Cum-Collector, Patna.
6. The District Programme Officer (Establishment), Patna, District Patna.

.... Appellant/s

Versus

1. Sunita Kumari W/O Arun Kumar Yadav Resident Of Village Baikatpur (Krishnauta Tola), P.O. Baikatpur, P.S. Khushroopur, District Patna.
2. The District Teachers Employment Appellate Tribunal, Patna through its Secretary, Computer Bhawan, Government Girls High School Campus, Bankipur, District Patna.
3. The Member Secretary-Cum-Block Development Officer, Block Teachers Employment Committee, Khushroopur, District Patna.
4. The Block Education Officer, Khushroopur, District Patna.

5. The In-Charge Headmaster, Upgraded Middle School, Baikatpur Tola, Khushroopur, District Patna.
6. The Block Development Officer, Kushroopur, District Patna.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate with
Mr. Vikash Kumar, Advocate
For the Private Respondents : Mr. Sanjeev Kumar with
Mr. Uday Pratap Singh, Advocates

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 06-09-2016

It may be noticed that the appeal was initially filed by Mr. Sunil Kumar Singh but on an objection of the office, the name of Mr. Sunil Kumar Singh has been deleted. It appears that the aggrieved person is Mr. Sunil Kumar Singh alone in LPA No.22 of 2014.

This order shall dispose of both these appeals directed against the order passed by the learned Single Bench on 22nd October, 2013. By the order impugned, the learned Single Bench has ordered initiation of departmental proceedings against the then Block Development Officer (appellant in LPA No.22 of 2014) for a major misconduct in relation to transfer of writ applicant and also for defying the order of the Tribunal. The relevant extracts from the order of learned Single read as under:

“22. In that view of the matter, while this Court would direct all the respondents to ensure that the order of the Tribunal is implemented within 24 hours, it would also



direct the Chief Secretary to the State of Bihar to initiate a departmental proceeding against Mr. Sunil Kumar Singh, the Block Development Officer, Khushroopur for a major misconduct prima facie appear to have been committed by him in relation to the transfer of the petitioner without being any power vested in him as also defying the order of the Tribunal with regard to allowing the petitioner to be revert on the post after his such order of transfer was quashed by the Tribunal.

23. This exercise of drawing a departmental proceeding and bringing to its logical conclusion must be completed within a period of six months from the date of receipt of this order. The Chief Secretary of the State of Bihar would also be under obligation to file an action taken report to the Registrar of this Court.

24. Before parting with this Court must however clarify that nothing said in this order shall come in the way of the competent authority for taking any appropriate action against the petitioner if she is found to be guilty of any misconduct in relation to her allocated duties but then for the moment her transfer order having been quashed by the Tribunal she must be reverted back on the post she was working on 10.5.2013.”

Learned counsel for the appellant – Sunil Kumar Singh contends that the writ applicant was transferred in view of the complaint against her and such order passed by him was approved by the Block Establishment Committee. The Appellate Authority set aside the order of transfer. The writ applicant sought implementation of the said order by way of the writ application in which while allowing the writ petition, the learned Single Bench has passed order

as extracted above.

A perusal of the writ application shows that the officer holding the post of the Block Development Officer was not impleaded as a party and order of the nature passed should not have been passed without giving opportunity to the affected persons as it has adverse effect on the officer.

Since an order adverse has been passed without giving opportunity to Mr. Sunil Kumar Singh to explain his conduct, we find that the direction given cannot be sustained in law. Consequently, the directions contained in paragraphs no. 22, 23 and 24 are set aside.

No other point is urged.

Thus the appeals stand allowed by setting aside the directions as mentioned above.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A