

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19 of 2015

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Kamal Rawat, Son of Sri Jugal Kishor Ram, Resident of Village - Badki Sarimpur
Gram Panchayat, Jaso, P.S. - Buxar (Ind.) Block and District - Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through the District Collector Buxar, District - Buxar.
2. The President of Block Employment Committee, Buxar, District - Buxar.
3. The Secretary, Block Employment Committee -cum- Executive Officer, Buxar,
District - Buxar.
4. The District Education Officer, Buxar.
5. The District Programme Officer (Establishment), Buxar.
6. The Head Master, Madhya Vidyalaya, Jaso, Block Buxar, P.S. Buxar (Ind.)
District - Buxar.
7. The Block Education Officer, Buxar, District - Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nil Kamal, Advocate Ms. Kumari Priyanka, Advocate
For the Respondent/s	:	Mr. Parijat Saurav, AC to AAG-10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 02-08-2016

Heard Mr. Nil Kamal, learned counsel appearing for the
petitioner and Mr. Parijat Saurav, learned Assisting Counsel to
Additional Advocate General No.10 for the State.

The petitioner is aggrieved by the order bearing Memo
No.261 dated 30.6.2014, whereby his service as a Panchayat
Teacher has been dismissed under rule 15(३) of the Bihar Panchayat
Primary Teachers (Appointment and Service Condition) Rules, 2012
(hereinafter referred to as the '2012 Rules') which has since
replaced the Bihar Panchayat Primary Teachers (Appointment and
Service Condition) Rules, 2006 (hereinafter referred to as the '2006

Rules' as amended from time to time.

Facts of the case briefly stated is that the petitioner was initially appointed as a Shiksha Mitra in the year 2003 and in view of the statutory provisions underlying rule 20(iii) of the '2006 Rules' that his services as *Shiksha Mitra* was absorbed as a Panchayat Teacher. It is the case of the petitioner that since after his appointment as a *Shiksha Mitra* and subsequent absorption as a Panchayat Teacher since 1.7.2006 he has been working with due diligence and that no complaint was received. It is his grievance that even when the petitioner has served the school with devotion that on an incorrect charge of absenting from school with effect from 1.3.2013 to June, 2014, his services have been dismissed.

The short argument advanced by Mr. Nil Kamal, learned counsel appearing for the petitioner to contest the impugned order is that it is in complete violation of the statutory procedure.

Contesting the argument of Mr. Nil Kamal, learned counsel appearing for the petitioner, learned counsel for the State refers to the counter affidavit filed and with a particular reference to Annexure-B he submits that a show cause was served on the petitioner as back as on 3.9.2013 but was not responded. He thus submits that it is in these circumstances that the impugned order of dismissal has been passed.



I have heard learned counsel for the parties and I have perused the records. As I have already observed hereinbefore that the '2012 Rules' has since replaced '2006 Rules' and is in force presently. Rule 15(३) of the '2012 Rules' provides for institution of disciplinary proceedings against the Panchayat Teachers and specifically provides for the procedure which is to be followed for imposition of minor as well as major penalty. The rule specifically mandates that in case of unauthorized absence a show cause would be asked from the delinquent and the show cause reply filed would be reviewed by the Appointment Committee under whose permission a departmental proceeding would be instituted. It further provides that in criminal cases where a teacher has been sent to judicial custody or is a guilty of misappropriation he shall be suspended while in other cases the departmental proceeding would be held, charge memo would served and an enquiry officer would enquire into the alleged charge. It further provides that only where a Panchayat Teacher in question is found guilty of the charge that either of the penalties which are discussed in the rule in question would be imposed.

A cursory glance of the order of dismissal impugned at Annexure-1 would show that the procedure mandated under the rule has been given a go bye and it is simply on a decision of the

Appointment Committee that the petitioner and one other have been dismissed from service. Even the counter affidavit does not mention that the mandatory procedure has been carried out rather the counter affidavit also simply speaks about a service of show cause which is only a first step towards a duly constituted proceeding.

In the undisputed circumstances discussed above, the order of dismissal impugned at Annexure-1 in so far as it relates to the petitioner cannot be upheld and is accordingly set aside. This order would, however, not preclude the authority to proceed afresh but in accordance with law.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15-0802016
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