

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1128 of 2011

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Himanshu Prasad, Son of Late Lachhu Yadav, Resident of Village- Bhagwatipur,
P.S.- Mahta, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Madhubani.
3. The Block Development Officer, Ladaniya Prakhand, Madhubani.
4. The Block Education Extension Officer, Ladaniya Madhubani.
5. The District Superintendent of Education, Madhubani.
6. Mukhiya Gram Panchayat, Lakshminiya (Ladaniya), Madhubani.
7. Panchayat Secretary, Gram Panchayat, Lakshminiya, Ladaniya, Madhubani.
8. Sukh Suvidha Committee, Gram Panchayat, Lakshminiya, Madhubani.
9. Baid Nath Chaudhary, Son of Late Lal Babu Chaudhary, Resident of Village -
Karha, P.S.- Ladaniya, P.O.- Ladaniya, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent-State : Mr. Surya Kant Kumar, AC to GA-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-11-2016

None appears on behalf of the petitioner. Mr. Surya Kant Kumar, learned Assisting Counsel to Government Advocate No.8 appears for the State. Though served and having appeared through Counsel there is no representation on behalf of respondent nos.6, 7 and 9 either.

The petitioner is aggrieved by the order dated 15.6.2010 of the Mukhiya, whereby his services as Panchayat Shikshak, Primary School, Bengatola, Gram Panchayat Raj, Lakshminiya in the district of Madhubani has been terminated, inter alia, on grounds of suppressing the fact of having appeared in the Matriculation examination and Intermediate Examination



twice, before the selection committee.

Amongst the other issues raised by the petitioner one of the issues raised is that the order has been passed without opportunity of hearing to the petitioner. The second issue raised by the petitioner is that though the petitioner was appointed as Panchayat Shiksha Mitra initially in the year 2003 but in view of the stipulations present in the Bihar Panchayat Elementary Teachers (Appointment and Service Condition) Rules, 2006, he has been absorbed as Panchayat Shikshak with effect from 1.7.2006 and whereafter no issue can be raised in relation to his absorption as Panchayat Shikshak.

Mr. Surya Kant Kumar, learned Assisting Counsel to Government Advocate No.8 while contesting the issues raised by the petitioner, submits that there is no estoppel on the appointing authority to examine the initial appointment of any candidate if it is resting on a fraud. He submits that in the present case there are two marks-sheets relatable to the petitioner which itself confirms that the appointment has not been obtained in a fair manner. However, he fairly accepts that the order has been passed by the Mukhiya without notice to the petitioner, although the petitioner has participated in the enquiry that had taken place earlier.

This matter was heard on 1.8.2011 and a Bench of this Court while issuing notice to respondent nos.6 to 9 had stayed the operation of the impugned order dated 15.6.2010 of the Mukhiya



and by virtue whereof the petitioner is continuing in service.

Having considered the issues raised by the petitioner in the background of the arguments advanced by Mr. Surya Kant Kumar, learned State Counsel, I am of the opinion that the writ petition is fit to be allowed on grounds of denial of reasonable opportunity to the petitioner to defend himself against the allegations. Undisputedly no opportunity of hearing was given to the petitioner by the Mukhiya, before passing the impugned order. The order of termination dated 15.6.2010 impugned at Annexure-8 having been passed without giving opportunity of hearing to the petitioner is violative of principles of natural justice and cannot be upheld and is accordingly quashed and set aside.

The writ petition is allowed. This order would, however, not preclude the authority concerned to proceed afresh against the petitioner but in accordance with law.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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