

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2944 of 2013

=====

Satya Narayan Singh, Son of Sri Lal Bihari Singh, resident of Village - Mahurahi, P.S. - Charpokhari, District – Bhojpur.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Education Department, Bihar, Patna.
2. District Education Officer, Bhojpur.
3. Block Development Officer, Charpokhari (Bhojpur).
4. Block Education Officer, Charpokhari (Bhojpur).
5. Rakesh Kumar Singh, Son of Late Radhey Shyam Singh, resident of Village - Ojhawaliya, P.O. - Laharabad, P.S. - Piro, District – Bhojpur.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Rajendra Prasad Singh, Sr. Advocate,
Mr. Pramod Kumar and Mr. Ritesh Kumar,
Advocates.

For the State : Mr. Ashok Kumar Gupta, A.C. to G.P. 10.

For the Respondent No. 5: M/S. Amresh Kumar Sinha and Nagadeo
Choubey, Advocates.

=====

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

6 31-07-2017 Heard learned senior counsel for the petitioner and
learned counsel for the respondents.

The petitioner has filed this writ petition seeking quashing of the office order contained in Memo No. 38 dated 17.01.2013, issued from the office of the Block Development Officer, Charpokhari, Bhojpur, by which engagement of the petitioner on the post of Physical Teacher has been cancelled with immediate effect, in compliance of the order passed by the District Teachers Employment Appellate Authority, Bhojpur, in Appeal



No. 02 of 2011 and in pursuance to the order dated 04.12.2012 passed in C.W.J.C. No. 14941 of 2012 (Rakesh Kumar Singh Vs. The State of Bihar & Ors.).

It has been submitted on behalf of learned senior counsel for the petitioner that the order of removal passed by the Member, District Teachers Employment Appellate Authority, Bhojpur, vide order dated 15.05.2012 in Appeal No. 02/2011 was ex parte. The petitioner was not party before the said Appellate Authority, Bhojpur, in Appeal No. 02 of 2011 which came to be initiated in the light of the order dated 17.10.2011, passed in C.W.J.C. No. 9878 of 2007, nor he was party even in C.W.J.C. No. 14941 of 2012 filed by the respondent no. 5.

Learned counsel for the respondent no. 5 submits that C.W.J.C. No. 14941 of 2012 was filed before this Hon'ble Court seeking mandamus for enforcement of the order dated 15.05.2012 in Appeal No. 02 of 2011, passed by the District Teachers Employment Appellate Authority, Bhojpur. Learned counsel for the respondent further submits that this Court while passing the order dated 04.12.2012 in C.W.J.C. No. 14941 of 2012 held thus:

“The Court finds no reason to interfere with the discussed order of the Tribunal on facts that the removal was contrary to law and that he otherwise fulfilled the condition of eligibility.



The order of Statutory Tribunals are required to be complied with by the respondents as a basic facet of the rule of law. Let it be show done forthwith.”

It is apparent from the records that the order dated 15.05.2012, passed in Appeal No. 02 of 2011, was never challenged by the petitioner hereunder, which came to be affirmed by this Court in C.W.J.C. No. 14941 of 2012 vide order dated 04.12.2012 and the office order contained in Memo No. 38 dated 17.01.2013 subsequently issued, in compliance of the said order dated 04.12.2012, passed in C.W.J.C. No. 14941 of 2012.

Learned senior counsel for the petitioner seeks permission to withdraw the present writ petition with a liberty to prefer an appeal before the Member, District Teachers Employment Appellate Authority, Bhojpur, for redressal of his grievance.

I am of the view that such liberty would not serve any purpose because the petitioner is aggrieved by the order of the District Teachers Appellate Authority dated 15.05.2012, passed in Appeal No. 02 of 2011, which has already been affirmed by the order dated 04.12.2012 passed by this Court in C.W.J.C. No. 14941 of 2012. Thus, in my view, the legal recourse available to the petitioner is either to file Review Application or Letters Patent



Appeal, in respect of the order dated 04.12.2012 passed in
C.W.J.C. No. 14941 of 2012.

This writ application is disposed of with a liberty to the
petitioner, if so advised, to prefer an intra-court appeal or review
application, in respect of the order dated 04.12.2012, passed in
C.W.J.C. No. 14941 of 2012 within a period of thirty days from
today.

U.K./-

U			
---	--	--	--

(Sudhir Singh, J)

