

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 19895 of 2016

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Shyam Mohan Choudhary Son of late Dinesh Narayan Choudhary, Resident of Village Lagma Rambhadrapur, P.O. & Police Station: Sakatpur, District: Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Govt. of Bihar, Patna.
3. The District Magistrate, Darbhanga.
4. The Director, Primary Education Bihar, Patna.
5. The District Education Officer, Darbhanga.
6. The District Programme Officer, Darbhanga.
7. The Sub-Divisional Public Grievance Redressal Officer, Benipur Sub-Division, Darbhanga.
8. The Block Education Extension Officer, Benipur, Darbhanga.
9. The Block Development Officer, Benipur, Darbhanga.
10. The Panchayat Secretary, Gram Panchayat Raj, Sajhuar, Benipur (Darbhanga).
11. The Regional Deputy Director (Education), Darbhanga Division, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate
For the State : Mr. Madhaw Prasad Yadav, G.P.23
Mr. Rajesh Kumar Sinha, A.C. to G.P. 23

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 14-11-2017

Heard learned counsel for the petitioner and the State.

2. Learned counsel for the petitioner is permitted to implead the Regional Deputy Director Education, Darbhanga as respondent no. 11. Let necessary correction be made by learned counsel for the petitioner, in the cause title of the writ petition, during the course of the day.

3. The petitioner has moved the Court for the following reliefs:



“(i) For setting aside the order dated 04.11.2016 passed by the Respondent No. 7, the Sub- Divisional Public Grievance Redressal Officer, Benipur Sub-Division, Darbhanga, whereby and where under a peculiar order has been passed against the petitioner on a frivolous complaint/application submitted by one Dhaniklal Mahto against the petitioner and it has been stated in the order that the petitioner does not obey his superiors and he has defalcated the amount related to School address of 51 children do not read/come in the said school where the petitioner is In-charge Headmaster, Primary School, Narha (Benipur Block) and it has been recommended for his transfer from the said school and recommendation for legal action has been recommended which is contrary to the fact and only for the purpose of harassing the petitioner the same has been done by the respondent no. 7 at the instance of rival group of the petitioner and the respondent no. 8.

(ii) For all consequential reliefs to which the petitioner is found entitled in course of hearing of this writ application.”

4. In essence, the petitioner is aggrieved by the order dated 04.11.2016, passed by the respondent no. 7 and the main ground of challenge is that the said order has been passed without any opportunity of hearing being given to the petitioner. Though the matter has been heard at length and various affidavits and rejoinders have been filed in which there is material either in favour of the petitioner or against him, but the limited issue for consideration before the Court is as to whether the contention of there being violation of principles of natural justice are made out or not. On a specific query to learned counsel for the State to indicate that the



petitioner was served notice with regard to any fact finding enquiry, he is not in a position to establish that such notice was served on the petitioner and then he avoided to participate and cooperate.

5. In the present proceeding, from the materials on record, all enquiries and reports nowhere indicate that the petitioner was served any notice or given any opportunity of hearing. Thus, any action against the petitioner based on such report(s) becomes untenable.

6. In view of the aforesaid, without going into the merits of either the allegations leveled against the petitioner or the findings recorded in the impugned order or even the findings recorded, which may be favourable to the petitioner, in the considered opinion of the Court, the order needs to be interfered with only on the short point of there being violation of principles of natural justice.

7. Accordingly, the impugned order dated 04.11.2016, passed by the respondent no. 7, stands set aside. However, since the allegations levelled against the petitioner would be required to be gone into, as has been suggested by the petitioner and accepted by learned counsel for the State, the matter is remanded to the respondent no. 11, who shall conduct a thorough enquiry after notice and opportunity of hearing to all concerned. The parties shall be



free to produce all materials in their support which shall be taken into consideration by the respondent no. 11 and thereafter a report shall be submitted to the respondent no. 4. Depending on the finding in the report submitted by the respondent no. 4, consequences shall follow, in accordance with law.

8. Let the petitioner appear before the respondent no. 11 within three weeks from today along with a copy of this order. The above directed exercise shall be completed by the respondent no. 11 within three months from the date of the petitioner appearing before him.

9. In view of this order, it goes without saying that no coercive action shall be taken against the petitioner by the departmental authorities based on the order which has been set aside, till submission of the report by respondent no. 11.

(Ahsanuddin Amanullah, J.)

P. Kumar

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