

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5749 of 2014

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Mushtaque Ahmad, S/O Late Master Md. Idris, resident of Village-
Chhitahi, Hanuman Nagar, P.S.- Saraigarh, Bhaptiyahi, District- Supaul.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Collector-Cum-District Magistrate, Supaul.
5. The District Education Officer, Supaul.
6. The Block Education Officer, Block- Saraigarh Bhaptiyahi, District- Supaul-Cum-Member Secretary, the Block Teacher Employment Unit, Block- Saraigarh Bhaptiyahi, District- Supaul.
7. The Block Teacher Employment Unit, Block- Saraigarh Bhaptiyahi, District- Supaul through its Member Secretary,
8. The Panchayat Teacher Employment Unit, Gram Panchayat Raj, Chhitahi, Hanuman Nagar, Block- Saraigarh Bhaptiyahi, District- Supaul through its Member Secretary.
9. The Panchayat Sachiv-Cum-Member Secretary, the Panchayat Teacher Employment Unit, Gram Panchayat Raj, Chhitahi, Hanuman Nagar, Block- Saraigarh Bhaptiyahi, District- Supaul.
10. The Mukhiya, Gram Panchayat Raj, Chhitahi, Hanuman Nagar, Block- Saraigarh Bhaptiyahi, District- Supaul.
11. The Director, State Council of Education Research and Training, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Advocate.
For the Respondents : Mr. Raj Nandan Prasad, S.C. 9.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 28-11-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The following reliefs have been sought for by the
petitioner in the present writ application.

“1. A. For issuance of a writ in the



nature of certiorari or any other appropriate writ, order/s, direction quashing the order dated 05.03.2014 contained in Memo No. 332 passed by the respondent no. 5 (The District Education Officer, Supaul) to the extent the same relates to giving direction to the concerned Block Teacher Employment Unit to remove the services of the petitioner after providing him an opportunity to show cause inasmuch as there is no scope for compliance of Natural Justice in the said order as also there was no mandatory clause with regard to passing of the eligibility test at the time of providing employment to the petitioner.

B. For issuance of a writ in the nature of mandamus or any other appropriate writ, order/s, direction commanding the respondents for the followings:-

I. To treat the annexure-9 to the petition to be nullity and non-est in the eye of law to the extent it relates to the petitioner.

II. To hold that there is no scope for compliance of the Principle of Natural Justice in the impugned order as the direction to call for representation/show cause from the petitioner is mere of formality to terminate him.

II. To hold that passing of eligibility test in two attempts can not be made mandatory in respect of the petitioner as no such condition/clause was there in the Government Notification No. 7 dated 01.07.2006 providing Bihar Panchayat Primary Teacher (Employment and Service Condition) Rules 2006.”



The petitioner is aggrieved by the order as contained in Memo No. 332 dated 05.03.2014, issued by respondent no. 5, the District Education Officer, Supaul to the Block Teacher Employment Unit to remove the services of the petitioner for the reason that the petitioner could not clear the 'Teachers Eligibility Test' on two different occasions. Subsequently, the said provision has been amended.

As per Rule 15(Kh)(iv) of Bihar Panchayat Prarambhik Shikshak (Niyojan Evam Seva Sart) (Sansodhan) Niyamawali, 2015, in place of two opportunities, an additional third opportunity is provided for those candidates who could not passed out the examination in question on earlier two occasions.

Considering the same, Memo No. 332 dated 05.03.2014, issued by respondent no. 5, the District Education Officer, Supaul is set aside in light of Rule 15(kh)((iv) of Bihar Panchayat Prarambhik Shikshak (Niyojan Evam Seva Sart) (Sansodhan) Niyamawali, 2015, if so advised, the petitioner may appear in the examination in question in light of the Amended Rule.

The present writ application is allowed.

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(Sudhir Singh, J)

