

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1276 of 2016

=====

1. Ranju Kumari daughter of late Siya Sharan Chaudhary, Wife of Shri Shankar Chaudhary, resident of Village- Ganaul, P.O.- Narayanpur, Police Station- Bhawanipur Bihapur, District- Bhagalpur, Prakhanda Teacher, Govt. Middle School Dudhaila, Block Parbatta, District- Khagaria.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director of Primary Education, Govt. of Bihar, New Secretariat Building Bailey Road, Patna.
3. The District Teacher Engagement Appellate Authority, Khagaria through its Member.
4. The District Magistrate, Khagaria.
5. The Block Development Officer, Parbatta in the District of Khagaria.
6. The District Superintendent of Education-cum-District Programme Convener, Khagaria, Bihar Education Project Khagaria in the District of Khagaria.
7. The Block Education Extension Officer, Parbatta cum Secretary of Block Teacher Engagement, District Khagaria.
8. Smt. Nutan Kumari daughter of Sri Sitaram Prasad Singh, resident of Village & P.O. Pasraha, Police station- Pasraha, District- Khagaria.
9. Pramukh, Panchayat Parbatta under District Khagaria.
10. The Secretary, Bihar School Examination Board, Patna.
11. Sheema Kumari daughter of late Bindeshwar Prasad Yadav, resident of Village & Post Parbatta, Police Station- Parbatta, District- Khagaria.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Umesh Kumar Mishra, Advocate

For the Respondent/s : Mr. AC to SC 26

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and



HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 21-08- -2017

Having heard learned counsel for the parties, the delay 662 days in filing of this appeal stands condoned. I.A. No. 6638 of 2016 is disposed of.

The appellant has filed this appeal calling in question tenability of an order dated 9.7.2014 passed by the learned Writ Court in C.W.J.C. No.7560 of 2010. In the said writ petition filed by the respondent Seema Kumari, it was her grievance that in the matter of appointment of Block Teachers in the second phase of employment, even though she was more meritorious and had received more marks than respondent No.8 in the said writ petition one Smt. Nutan Kumari, it was stated that Smt. Nutan Mukari has been appointed. It was also brought on record in the said writ petition that after due enquiry and counter affidavit filed by the Bihar School Examination Board that the certificate produced by respondent No.8 Smt. Nutan Kumari and the mark sheet produced by her showing the marks obtained by her in the qualifying examination is a forged and fabricated document. Based on the aforesaid document, the *lis* between the original writ petitioner Seema Kumari and respondent No.8 Smt Nutan Kumari was decided



by a Bench of this Court on 9.7.2014 and finding the mark sheet of respondent No.8 to be forged and fabricated, it was directed that her services be terminated and in her place the original petitioner Seema Kumari be appointed. However, while directing for enquiry in the said writ petition, it was brought to the notice of the learned Writ Court that in the appointment in question certain persons whose names are given in Annexure H filed along with the counter affidavit on behalf of the Secretary, Bihar School Examination Board, names of various other teachers are indicated who have obtained appointment by producing forged mark sheet.

Taking note of the aforesaid, while allowing the writ petition filed by Seema Kumari, the learned Writ Court passed the following directions also:

“I further direct the Secretary, Bihar School Examination Board, Patna to institute a first information report with respect to documents contained in Annexure-5 to the writ application and annexure-H to the counter affidavit. The first information report must be instituted within one week from the date of receipt/production of a copy of this order. The District Magistrate, Khagaria is directed to ensure action against all such appointees, whose names figured in annexure-H to the counter affidavit filed on behalf of Respondent No.8.

13. This writ application is allowed, accordingly.

Put up this matter under the heading “to be mentioned” to report compliance as regards payment of



cost in the light of present order on 13.10.2014”

Even though the direction issued by the learned Writ Court, as reproduced hereinabove, was to lodge an F.I.R. with regard to the persons who are said to have obtained forged mark sheet and thereafter to proceed in accordance with law with regard to their appointment, it seems that by the impugned order dated 9.7.2014, merely on the basis of the fact that the present appellant's name also appears in Annexure H, her services have been terminated. It is stated that challenging the termination, the appellant approached the Appellate Authority, but the Appellate Authority refused to take cognizance of the appeal only on the ground that as her termination is by virtue of the order passed in C.W.J.C. No.7560 of 2010 by this Court, the appeal cannot be entertained. Grievance of the appellant is that action has been taken, her services have been terminated vide order dated 18.12.2015 only because of the aforesaid observations and directions issued in C.W.J.C. No.7560 of 2010, without hearing her, without granting her opportunity and without causing an enquiry with regard to her name being included in Annexure H to the counter affidavit filed in the earlier writ petition. It is stated that in view of the above, she has no option but to file this appeal and seek quashing of the aforesaid observation made by the learned Writ



Court on 9.7.2014 in C.W.J.C. No.7560 of 2010.

Having heard learned counsel for the parties at length, we are of the considered view that the directions with regard to action to be taken against the persons whose names appeared in Annexure H to the counter affidavit filed in C.W.J.C. No.7560 of 2010 by the Secretary, Bihar School Examination Board by this Court was only to the extent that after lodging of an F.I.R. action should be taken against the persons concerned in accordance with law by following the due process of law. Neither it was nor it could be directed to automatically terminate the services of all persons without following the process of law or principles of Natural Justice.

We allow this appeal and clarify the directions issued by the learned Writ Court on 9.7.2017 in C.W.J.C. No.7560 of 2010 to the extent that the direction was only to take action against such persons whose names appear in Annexure H to the counter affidavit and if any person has been proceeded with and action has been taken against him without following the principles of law, liberty shall be available to the person to challenge the action afresh in accordance with law either before the Appellate Authority or any other authority competent to decide the challenge made in accordance with law, without being influenced by the aforesaid observations made in



C.W.J.C. No.7560 of 2010.

With the above clarification and liberty to the appellant,
the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.8.2017
Transmission Date	N/A

