

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15029 of 2017

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Mina Kumari, wife of Govind Das, resident of Village Kahra, P.O. Kahra, P.S. Saharsa, District Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Bihar, Patna.
2. The Principal Secretary, Department of Education, Bihar, Patna.
3. The Director Primary Education, Department of Education, Bihar, Patna
4. The District Magistrate, Saharsa.
5. The District Programme Officer (Establishment), Saharsa
6. The District Education Officer, Saharsa
7. The Sub Divisional Officer, Simri Bakhtiarpur, Sub Division Simri Bakhtiarpur, District –Saharsa
8. The Block Development Officer, Simri Bakhtiarpur, Sub Division Simri Bakhtiarpur, District –Saharsa
9. The Block Education Officer, Simri Bakhtiarpur, Sub Division Simri Bakhtiarpur, District –Saharsa
10. Mohanpur Gram Panchayat through the Panchayat Niyojan Shiksha Samitee through Panchayat Secretary-cum-Member Secretary, Mohanpur Panchayat, P.O. Balwahat, P.S. Bakhtiarur, District Saharsa
11. The Panchayat Secretary-cum-Member Secretary, Panchayat Niyojan Shiksha Samitee, District Saharsa
12. Mukhiya, Mohanpur Gram Panchayat, P.O. Balwahat, P.S. Bakhtiarur, District Saharsa

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Shrivastava, Advocate with
Mr. Sanjeev Kumar and
Mr. Rajeev Shekhar, Advocates
For the State : Mr. Kameshwar Kumar, GP 17 with
Mr. S. K. Ranjan, AC to GP 17

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsel for the petitioner and State.

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

*“ (i) To issue a writ in the nature of Certiorari for quashing the order as contained in memo no. 06 dated 19.09.2017 to the extent the petitioner is concerned by which the respondent no. 11 has cancelled the appointment of the petitioner and others and consequent upon quashing the same, issuance of direction to the respondents to allow the petitioner to continue on the said post on which she was discharging her duties as Panchayat Teacher.
(ii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.”*

3. Learned counsel for the petitioner submitted that he was appointed as Panchayat Teacher and joined on 06.04.2007. However, in a case where the petitioner was not a party, the High



Court, by order dated 06.07.2010 in C.W.J.C. No. 5211 of 2010 directed for holding of fresh counselling for all the seats filled up, including that of the petitioner. He submitted that with regard to four persons before the Court, it was specifically stipulated in the order that their services shall be deemed to have been terminated the day the B.D.O. passed orders i.e., 14.04.2008. Learned counsel submitted that the petitioner was not one of the persons in the order passed by the B.D.O. dated 14.04.2008 and also not party before the Court in such proceeding. Learned counsel further submitted that the said order was also affirmed on 25.08.2011 in L.P.A. No. 1391 of 2010. It was submitted that though the direction of the Court was to conduct a fresh counselling within one month but since then the matter remained pending and only by order dated 19.09.2017, the appointment of the petitioner, along with others was cancelled on the ground that fresh counselling was required to be done in terms of the aforesaid orders of the Court. Learned counsel submitted that as the said orders have attained finality, he would not be going behind such orders. However, he submitted that the petitioner, pursuant to such exercise of fresh counseling has also appeared for counselling ,which has been held yesterday and only till the time the final merit list is not prepared, she may not be disturbed and be allowed to continue as such teacher, with the assurance that, depending on the result in the counseling, she



would abide by the consequences.

4. Learned counsel for the State submitted that the said exercise was necessary for compliance of the orders of the Court.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that in the interest of justice, when the petitioner has continued for over 10 years and there being no order of termination of her services earlier, at this belated stage and only a few weeks, even prior to the exercise, as directed by the Court in its earlier orders, being taken to its logical conclusion, the petitioner has made out a case for her to continue on the post till a fresh arrangement is put in place.

6. Accordingly, the writ petition stands disposed off with a direction that the counselling, which has been held, be taken to its logical conclusion, by preparation of merit list and selection of candidates for the post of Panchayat Teachers in Mohanpur Gram Panchayat, Block- Simri Bakthiyarpur in the district of Saharsa.

7. It goes without saying that depending on the result of such counseling, if the petitioner fails to find place in the merit list and be selected ultimately, she will have no right or claim over the post held by her and her service shall stand terminated. However, the Court would hasten to clarify that this would not preclude the petitioner, in future, from exercising her right to assail any order



prejudicial to her interest, before the appropriate forum, in accordance with law.

8. In view of the order passed, the impugned order of termination of the service of the petitioner dated 19.09.2017, stands modified to the extent indicated above.

(Ahsanuddin Amanullah, J)

Anjani/-

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