

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1867 of 2016

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Nishat Ara W/o Md. Tarik Anwar D/o Tauhid Alam, resident of Village-
Garaiya, P.S.- Barari, District- Katihar. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Govt. of Bihar, Patna.
 2. The Director Mass Education, Govt. of Bihar, Patna.
 3. The District Education Officer, Katihar.
 4. The District Programme Officer (Sakcharta), Katihar.
 5. The Block Development Officer, Barari, District- Katihar.
 6. The Block Education Officer, Barari, District- Katihar.
 7. The Chairman Shiksha Swayam Sewak Choyan Samittee, Naya Primary School, Garaiya, Barari, District- Katihar.
 8. The Headmaster, Naya Primary School, Garaiya Barari, District- Katihar.
- Respondent/s
- =====

Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar Sinha, Sr. Advocate
		Mr. Bhola Prasad, Advocate
For the State	:	Mr. Rani Bhardwaj AC to GA-13
For private Respondent	:	Mr. Sanjeev Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 20-03-2018 Heard Mr. Devendra Kumar Sinha, learned senior

counsel for the petitioner and the counsel appearing on behalf of

the respondents.

Mr. Sinha, learned senior counsel has submitted that

instead of going into the details of the facts his grievance is

only confined to denial of principle of natural justice in the

decision making process. He submits that at least before passing

impugned order, respondents are required to give opportunity of

hearing.

Learned counsel for the State submits that no

prejudice is caused to the petitioner on account of denial of

principle of natural justice. He does not dispute the submission



of Mr. Sinha that the order was passed against the petitioner without providing opportunity of hearing.

Law in this regard is well settled that no order visiting evil and civil consequence can be passed against the person without providing opportunity of hearing.

Reference in this connection may be made to the Apex Court in the case of **H. L. Trihan & Ors. Vs. Union of India reported in 1989 SC 567.**

Mr. Sanjeev Kumar Sinha, learned counsel submits that he is representing interest of Mr. Jamil Akhtar. He is necessary party in this case and he should have been heard. Accordingly, counsel for Mr. Jamil Akhtar has been heard in the matter. He submits that the petitioner cannot improve the case even after providing opportunity of hearing.

From the submission of the respondents, it appears that he has not disputed the fact that order was passed behind the back of the petitioner and without providing opportunity. They are relying on the prejudice test to oppose the writ application.

Denial of principle of natural justice itself is a prejudiced, no further prejudice is required to be established in a settled principle of law.

In the instant case when the parties have admitted the



fact that the order contained dated 14.12.2013 was passed without opportunity of hearing to the petitioner. Such order visits civil consequences and as such in the absence of opportunity of hearing cannot sustain.

The court is of the view of that in view of the decision of the Apex Court in the case H.L. Trehan(Supra) the order visiting civil consequence cannot be passed without opportunity of hearing.

Accordingly, the order contained in memo no. 174 dated 14.12.2015 is quashed.

The matter is remitted to the District Programme Officer, Katihar who shall hear the parties and after opportunity of hearing to the parties including the petitioner and Mr. Jamil Akhtar, may pass fresh order in accordance with law and final decision as to the eligibility and disqualification of the petitioner may be passed by the respondent District Programme Officer, Katihar within a period of thirty days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

Ravi/-

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(Anil Kumar Upadhyay, J)

