

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16986 of 2015

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Pramod Kumar @ Pramod Kumar Ram S/o Sri Dukhharan Ram, a resident of
Vill.- Jhauan, P.O.- Benwalia, P.S.- Bihiya, Dist.- Bhojpur. Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Department of Education,
Bihar, Patna.
 2. The District Magistrate, Bhojpur, Ara.
 3. The District Education Officer, Bhojpur, Ara.
 4. The Block Teachers Employment Officer-cum-Block Development Officer,
Shahpur, Bhojpur.
 5. The Principal, Utakramit Madhaya Vidyalaya, Ramdihra, Shahpur, Bhojpur.
 6. The District Appellate Authority, Bhojpur, Ara. Respondent/s
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Appearance :

For the Petitioner/s : Mr. Awadh Bihari Ojha, Sr. Advocate
Mr. Nitesh Kumar, Advocate
Mr. Bharat Bhushan, Advocate Mr. Nitesh Kumar
For the Respondent/s : Mr. Pramod Kumar Singh, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 04-12-2018

Heard learned counsel for the petitioner and the counsel
appearing on behalf of the respondents.

2. Petitioner was terminated on the ground that during the
surprised inspection on 10.9.2014 he was found absent. The order
dated 17.9.2014 indicates that the petitioner he has not submitted
explanation and during the enquiry from the people around, the
respondent came to the conclusion that presence of the petitioner
has adversely affected the students of the school. He has referred a
case registered against the petitioner being Bihia P.S. Case No. 205
of 2014 under sections 341/323/353/504/506/34 and as such his
service was dismissed. The petitioner approached District Teachers
Employment Authority against the decision of the Block
Development Officer. Instead of answering the basic issue involved



in this case, the District Teachers Employment Authority has discussed many things which is precisely uncalled for and dismissed the appeal. There is absolutely no material on record to establish that the petitioner was provided opportunity of hearing before the order of termination was passed against the petitioner.

3. It is now well settled proposition of law that no order visiting evil and civil consequences can be passed without compliance of the principle of natural justice.

4. In the matter of termination, the Block Development Officer has proceeded on the basis of conjecture and surmises which can only be considered ipse dixit.

5. The Court cannot approve such act of termination of the petitioner without opportunity of hearing. Non-compliance of principle of natural justice and the decision vitiated.

6. In view of the above, the Court is of the considered view that annexure-1 cannot sustain and it is accordingly quashed. The order rejecting appeal by the Appellate Authority is nullity in the eye of law as the Appellate Authority has not addressed the issue of non-compliance of the principle of natural justice while deciding the appeal.

7. The basic principle of natural justice and fair play is applicable with all its rigor in the case of termination and the Block Development Officer cannot exercise discretion as if he is above the



law. Individual howsoever high law is not above law and while exercising power in a system governed by rule of law, everyone exercising power and discretion vested with him with inherent limitation that power should be exercised reasonably and not arbitrarily. The order contained in Annexure-1 is patent example of arbitrariness and as such the Court has no option but to quash Annexure-1 and the order of the Appellate Authority contained in Annexure-2 suffers from the vice of non-application of mind to the basic issue of breach of Principles of Natural Justice.

8. The writ petition is accordingly allowed. Annexure-2 is accordingly, quashed.

9. The effect of quashing Annexures-1 and 2 is reinstatement of the petitioner with all consequential benefits of back wages. The respondents have to pass appropriate order for reinstatement to the petitioner within a maximum period of sixty days from the date of receipt/production of a copy of this order.

10. With the aforesaid, the writ petition stands allowed.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2018
Transmission Date	

