

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2766 of 2008

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Kumari Deepmala, Daughter of Pramod Kumar and wife of Manoranjan Kumar, resident of village Harichak, PO Sanjaat, PS Bhagwanpur, District Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Human Resources Department, Patna, New Secretariat, Patna
2. The Collector, Samastipur
3. The District Superintendent of Education, Samastipur
4. The Block Development Officer, Bibhutipur Block, District Samastipur
5. The Block Education Extension Officer, Bibhutipur Block, District Samastipur
6. The Mukhiya, Deshari Karrakh Panchayat, Bibhutipur Block, District Samastipur
7. The Panchayat Secretary, Deshari Karrakh Panchayat, District Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Mr. Sanjay Kumar
For the Respondent/s	:	Mr. Mujtabaul Haque, GP 12
		Mr. Vasant Vikash, AC to GP 12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 25-10-2018

Heard learned counsel for the petitioner and learned counsel appearing for the State.

Two fold submissions have been advanced on behalf of the petitioner. Firstly, the order was passed by the Block Development Officer, Bibhutipur Block, Samastipur who was the appellate authority under the rule and as such exercising the power by the appellate authority in dispensing the service of the petitioner is illegal and arbitrary as the petitioner has been deprived of the forum of appeal. Secondly, it is contended that the



reasons assigned in Annexure-11 is different from the subject matter of enquiry. It is submitted that the employment of the petitioner has been cancelled without reasonable opportunity of being heard. Learned counsel submits that the certificates of the petitioner are genuine but Annexure-11 was issued on the premise that the certificates of the petitioner are forged and fabricated.

This writ petition was filed in 2008. Even after ten long years the respondents have chosen not to file counter affidavit. Under the aforesaid circumstances, the Court has no option but to dispose of the writ petition on the basis of the pleadings available on record.

The service of the petitioner was terminated by the Block Development Officer who was admittedly the appellate authority under the 2006 Rules and as such power exercised by the appellate authority in dispensing with the service of the petitioner was not in accordance with law. Accordingly, Annexure-11 is quashed. However, quashing of Annexure-11 will not accrue any right to the petitioner to hold the post and consequential benefits thereof as the respondents are still required to verify the record related to appointment of the petitioner as to whether her appointment was made in accordance with law and on the basis of genuine certificates. Necessary verification in this regard may be



completed by the District Programme Officer (Establishment), Samastipur, who shall cause an enquiry into the matter and after affording an opportunity of hearing to the petitioner the District Programme Officer (Estt.), Samastipur shall pass a fresh order. On enquiry if it is found that the appointment of the petitioner was after following the procedures and the prescribed rules and the certificates are genuine, he shall pass an appropriate order in respect of reinstatement of the petitioner as Panchayat Shikshak with all consequential benefits. In the event the District Programme Officer (Estt.), Samastipur does not find any merit in the claim of the petitioner, he shall pass appropriate order in accordance with law.

Necessary steps in this regard must be taken within the time frame of four months from the date of receipt /production of a copy of this order.

The writ petition stands disposed of accordingly.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.10.2018
Transmission Date	N.A.

