

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.448 of 2016

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Sarwat Afroz, wife of Md. Khalid Faizan, resident of Mohalla- Laheri, P.S.- Bihar Sharif, District- Nalanda, presently working as Asstt. Urdu teacher in Faizanul-o-loom Urdu Girls Middle School, Mohalla- Laheri, P.S.- Bihar Sharif, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna
3. The Director, Primary Human Resources Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna-1
4. The Joint Secretary, Human Resources Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna
5. Sri Surendra Kumar, The District Programme Officer, Establishment, Nalanda
6. Yogesh Chandra Singh, The District Education Officer, Nalanda.
7. The District Superintendent of Education, Nalanda.
8. The Secretary, Faizanul-o-loom Urdu Girls Middle School, Mohalla- Laheri, P.S.- Bihar Sharif, District- Nalanda
9. The Headmaster Faizanul-o-loom Urdu Girls Middle School, Mohalla- Laheri, P.S.- Bihar Sharif, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Anisur Rahman, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Mandal- SC24

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 12-03-2018 Heard learned counsel for the petitioner and the counsel appearing on behalf of the respondents.

During the course of hearing that the parties have agreed that the order impugned was passed in teeth of principle of natural justice as no opportunity of hearing was provided to the petitioner before passing order visiting evil and civil consequence. The law in this regard is well settled that no order visiting evil and civil consequence may be passed without



compliance of natural justice.

Reference in this regard may be made to the judgment of the Apex Court in the case of **H.L. Trihan & Ors.vs. Union of India 1989 (1) SCC 764** the requirement of natural justice is sine quo non of the decision making process which adversely affect the interest of the employee.

In the present case order of termination was passed in teeth of principle of natural justice as no opportunity of hearing was provided to the petitioner.

Mr. Anisur Rahman, learned counsel for the petitioner has placed reliance on the decision of Apex Court in the case of **Basudeo Tiwary vs. Sido Kanhu University & Ors. reported in 1998 SCC 194** to contend that action in teeth of principle of natural justice is violation of Article 14 and such order cannot be sustained.

In view of the settled principle of law, no order visiting evil and civil consequence can be passed without compliance of natural justice, the order contained in Annexure-11 dated 2.12.2015 and the order contained in Annexure 12 is letter no. 350 dated 27.2.2017 which was passed without complying principle of natural justice and fair play cannot be sustained and is accordingly quashed.



The petitioner shall be treated as re-instated with all consequential benefits, however, liberty shall be available to the respondents to take afresh steps in accordance with law if otherwise permissible under law.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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