

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.949 of 2015

Gajendra Kumar. S/O Late Ramjee Yadav. R/O village - Virndawan, P.O.-
Dinapatte Via - Murliganj, P.S.- Murliganj, Distt.- Madhepura
... Petitioner

Versus

1. The State of Bihar.
 2. The Principal Secretary Education Department Govt. of Bihar, Patna.
 3. The Director Secondary/Education Govt. of Bihar, Patna.
 4. The Regional Deputy Director of Education, Madhepura.
 5. The District Education Officer, Madhepura.
 6. The District Programme Officer (Estt.) Madhepura ... Respondents
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Appearance :

For the Petitioner : Mr. Rajendra Prasad Singh, Sr. Adv. with
Mr. Rajeev Kumar Singh, Adv.
For the Respondents : Mr. Sita Ram Yadav, GP XVI

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 02-07-2018

Heard Mr. Rajendra Prasad Singh, learned senior counsel along with Mr. Rajeev Kumar Singh, learned counsel for the petitioner and learned Assistant Counsel to GP XVI, for the State.

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

- (a) To quash the enquiry report dated 25.02.2007, so far it relates to petitioner, by which the enquiry committee has recommended for removal of petitioner from the



post of assistant teacher. **A copy of enquiry report is annexed as Annexure-1 to this application.**

(b) To quash the follow-up order contained in memo no. 1401 dated 25.06.2007 issued by D.S.E., Purnea, so far it relates to petitioner, whereby and whereunder the petitioner has been removed from the post of assistant teacher. **A copy of memo dated 25.06.07 is annexed as Annexure-2 to this application.**

(c) Further to direct the Respondents to appoint the petitioner on the post of assistant teacher and accordingly post him in an appropriate middle school in the district of Purnea with all consequential benefits.

And

For any other relief(s) in the facts and circumstances of the case.

3. Learned counsel for the petitioner submitted that the reason why the authorities have found the petitioner to have submitted forged and fabricated order of his appointment and transfer is that his Memo number in transfer order does not tally. It was submitted that the mere wrong mentioning of the Memo number would not change the contents of the order and, thus,



when the petitioner has been appointed along with others and they are continuing, the appointment letter of the petitioner cannot be said to be forged and fabricated. Learned counsel further submitted that even when the Court on the last occasion in C.W.J.C. No. 2161 of 2001 and analogous cases by order dated 04.05.2006 had directed the matter to be considered by a High Powered Committee, the petitioner was not given opportunity to present his case as he was ill and, thus, he is required to be given another opportunity.

4. Learned counsel for the State has filed a counter affidavit and submitted that the basic stand is that in terms of the earlier direction of the Court in C.W.J.C. No. 2161 of 2001, the case of the petitioner, along with others, was considered by the High Powered Committee but due to non-cooperation/non-appearance by the petitioner, the Committee has gone on the basis of documents submitted by the petitioner and has found that the letters of appointment and transfer were forged and fabricated. A rejoinder has been filed on behalf of the petitioner on 15.02.2018 in which it is accepted that the petitioner did not appear before the Committee for the reason that he was physically unfit.



5. Having considered the matter, the Court would first deal with the finding of the High Powered Committee which was constituted in terms of the order of the Court and which was headed by the Divisional Commissioner, Purnea; the Deputy Development Commissioner, Purnea and the District Education Officer, Purnea, as its Members. The Committee considered the case of nine persons, including the petitioner. In the case of the petitioner, the Committee has given a finding that Memo No. 5814-6216 dated 04.06.1979 was incorrect and further that the correct Memo number was 5814-6218 dated 04.06.1976 and even in that letter, the name of the petitioner did not figure. The Committee further found that the Memo number through which the petitioner is said to have been transferred from Primary School, Pathamari, Thakurganj, to Primary School, Hasanpur, Kanya, also was incorrect as through the said Memo one Smt. Shanti Kumari, teacher, had been transferred. This clearly establishes that the documents on which the petitioner claims his initial appointment as well as subsequent transfer were not part of the official records and even the official records pertaining to such transaction showed that neither the name of the petitioner was in the list of the appointees nor was he transferred under the



said letter to a different school. The Court would pause here and refer to the observation made by the Court earlier while disposing off C.W.J.C. No. 2161 of 2001 which was filed by the petitioner and analogous cases. The relevant portion reads as under :

“12. The question which, now, falls for consideration, at this juncture is as to whether in the aforesaid set of factual profile the impugned termination order against the petitioners could be said to be vulnerable and assailable. Ordinarily in a case of prima-facie proof of fraud and fabrication, no court of law can assist or render juridical view to the wrong doer or to the party who is privy to the fraud. This proposition is very well established and expounded. It is therefore, this Court would not go any further on that aspect. However, the question which requires to be considered and adjudicated upon is as to whether the plea of fraud has some support from the material on record and it is, whether the petitioners could be attributed to have contributed in the emergence of the alleged fraud or fabrication of the documents. If these two aspects are



established even on prima-facie basis, obviously the petitioners would not be able to claim any legal help”.

6. From the aforesaid, it is clear that the Court had accepted the position that when allegation of fraud is prima facie established then the petitioner cannot claim any legal help. In the present case, from the materials/documents supplied by the petitioner himself before the authorities, both the documents have found to be non-existent. The plea that an opportunity of hearing was not given to him would also not help the petitioner in the present case for the reason that whatever he may have wanted to say before the High Powered Committee he had the opportunity to say so before this Court, but in the present case also he had not taken any ground nor has brought any document to show his appointment was legal and valid. However, the contention of the petitioner that he may have a case can now only be agitated, in the background of the finding by the High Powered Committee, and as has been observed here-in-above, before a proper forum which is competent to decide issues of facts after adducing proper evidence in accordance with law. For the present, there being sufficient materials against the petitioner cannot permit the petitioner to get any relief from the Court exercising power under



Article 226 of the Constitution of India, as whatever fact has been proved from the official records go against him and whatever has been argued on behalf of the petitioner has neither been proved nor any material brought on record before the authorities concerned or even before this Court in the present writ application.

7. In the aforesaid background, the writ petition, being devoid of merit ,stands dismissed.

8. However, the petitioner shall be at liberty to move before the proper forum in accordance with law for declaration with regard to his appointment and subsequent orders being genuine and valid in the eyes of law. As and when the petitioner may approach the proper forum, in accordance with law, the same shall be considered on its own merits, without being prejudiced by the present order dismissed.

(Ahsanuddin Amanullah, J)

Shamshad/-

AFR/NAFR	NAFR
Uploading Date	03.07.2018

