

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7118 of 2017

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Sanjeev Kumar S/o Late Tarini Prasad Sinha R/o Mohalla - Kailashpuri, Ward No. 9, PS - Dumra, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Human Resource Department, Bihar, Patna.
3. The Director (Secondary Education), Human Resource Department, Government of Bihar, Patna.
4. Regional Deputy Director Education, Tirhut Division, Muzaffarpur.
5. District Education Officer, Vaishali at Hajipur.
6. District Education Officer, East Champaran, Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nirmala Kumari, Advocate
Mr. K. K. Thakur, Advocate
Mr. Virendra Kumar, Advocate
For the Respondent/s : Mr. S.C. Mishra- SC16
Mr. Pramod Kumar Singh, AC to SC 16

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-08-2018

Heard the parties.

In the present writ petition, the petitioner is challenging the order of termination vide Memo No. 104 dated 23.01.2017 (Annexure 16) passed by Regional Deputy Director of Education, Tirhut Division, Muzaffarpur, in exercise of power conferred under Rule - 14(xi) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005. The petitioner is also challenging the order dated 14.09.2017, passed by the Appellate Authority i.e. Director, Secondary Education, Government of Bihar, Patna, who refused to



interfere with the order of dismissal, affirmed the same.

Learned counsel for the petitioner submits that the petitioner was arrested in connection with Vigilance P.S. Case No. 5/2016 on account of bribery along with one Alok Kumar and both of them are facing criminal trial under Sections 7, 8, 13(2) read with Section 13(1) (d) of the Prevention of Corruption Act and side by side a departmental proceeding was also initiated against the petitioner, whereafter order of punishment of dismissal from service has been passed which was challenged in appeal unsuccessfully. He further submits that in the departmental proceeding same mistake as in the case of Alok Kumar has been committed during enquiry as they have not brought evidence in terms of law rather in *ipsi dixit* and perfunctory manner enquiry has been conducted and order of dismissal has been passed. It has also been submitted, the case of petitioner is identical to the case of Alok Kumar. In this case, Enquiry Officer has submitted the inquiry report before the date fixed for arguments from both sides. Same anomaly has also taken place like in the case of Alok Kumar and this Court has quashed the order of Disciplinary Authority as well as of Appellate Authority accordingly remanded back the same.

Learned counsel for the petitioner submits that case of the petitioner is identical to the case of Alok Kumar and he should be



given the same benefit as has been given to Alok Kumar in terms of order passed in C.W.J.C. No. 8601 of 2017.

Accordingly, the order of termination dated 23.01.2017 as well as the order of Appellate Authority dated 14.09.2017 are quashed and the matter is remanded back to the Enquiry Officer to conduct the enquiry in a fare, proper and transparent manner after following the procedure provided in Rule 17 of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005. The Disciplinary Authority shall take decision in accordance with law. It goes without saying that the petitioner will be entitled to subsistence allowance. Any payment will be subject to outcome of the departmental proceeding.

With aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/Sunny

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	5.9.2018
Transmission Date	NA

