

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12503 of 2017

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Asha Kumari, wife of Dinesh Prasad, resident of village - Yarpur, P.S. - Hilsa,
District - Nalanda. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
 2. The District Magistrate, Nalanda.
 3. The District Education Officer, Nalanda.
 4. The District Programme Officer (Establishment), Nalanda.
 5. The Sub-Divisional Officer, Hilsa, District - Nalanda.
 6. The Block Development Officer, Hilsa, District - Nalanda.
 7. The Block Education Officer, Hilsa, District - Nalanda.
 8. The Nagar Executive Officer, Nagar Parishad Hilsa, Nalanda.
 9. The Pramukh, Hilsa Block District - Nalanda.
 10. The Mukhia, Gram Panchayat Raj, Yogipur, Hilsa, District - Nalanda.
 11. The Panchayat Secretary, Gram Panchayat Yogipur Hilsa, District - Nalanda.
 12. Satish Prasad, son of Sri Shyamlal Singh, resident of Village - Naugarh, P.O. -
Asharhi, P.S. - Hilsa, District - Nalanda. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Chaudhary, Advocate
Mr. Bhola Kumar, Advocate
For the Respondent/s : Mr. Narendra Kumar, AC to GP-20
For Respondent No.9 : Mr. Pravin Kumar Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date: 03-05-2018

Heard learned counsel for the petitioner and
respondents.

2. This is the second round of litigation.

3. In earlier round of litigation in C.W.J.C. No. 17552
of 2015, the Writ Court allowed the writ application. The order of the
Writ Court dated 15.07.2016 is reproduced herein below for ready
reference:

“The petitioner was initially appointed as
Shiksha Mitra in Middle school, Yogipur, Hilsa,
Nalanda. After coming into force of Bihar
Panchayat Rules, she was confirmed as



Panchayat Teacher under rule 20 of 2006 rules. Nine years thereafter vide letter, dated 3.10.2015 petitioner's service was cancelled by the BDO cum Secretary, Prakhand Shikshak Selection Unit, Hilsa, Nalanda.

Learned counsel for the petitioner submits that the impugned order passed by the BDO is without jurisdiction. Besides, the same has been passed without giving her show cause.

In view of the aforesaid facts, the impugned order dated 3.10.2015, passed by the BDO cum Secretary, Prakhand Shikshak Selection Unit, Hilsa, Nalanda is not sustainable in law, which is set aside with liberty to the respondents to proceed afresh in accordance with law.

The writ petition is thus allowed to the extent indicated above.”

4. The Court held out that the order cannot sustain, as the order was passed in breach of principles of natural justice and the BDO-cum-Secretary, Prakhand Shikshak Selection Unit, Hilsa, Nalanda is not competent to pass order of termination. After the order as contained in Annexure-6, the matter was re-examined by the Employment Unit. From perusal of Annexure-7, the proceeding of the Employment Unit pursuant to the direction of the Writ Court in C.W.J.C. No. 17552 of 2015 indicates that the said decision was not unanimous decision, as it does not bear the signature of Pramukh-cum-Chairman of the Employment Unit.



5. In the present case, the Chairman was made party respondent no.9 and he has filed counter affidavit disputing the fact that he was party to unanimous decision to dispense the services of the petitioner. The order as contained in Annexure-9 proceeds that there was consensus among the members of the Employment Unit, but that position stands disputed by the Chairman of the Employment Unit, who is respondent no.9 in the present writ application. That apart when this Court has held out that the B.D.O. has no jurisdiction to pass order of termination, the order passed by the B.D.O. subsequent to the order of the Writ Court is unsustainable in law and, as such, the follow up order as contained in Annexure-10 is unsustainable as a result thereof the petitioner would be entitled to reinstatement with all consequential benefits forth with.

6. The respondents are directed to reinstate the petitioner with all consequential benefits.

7. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2018
Transmission Date	

