

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9415 of 2015

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Vijay Prasad S/O Puneet Prasad, R/o Village- Babuganj, P.S.- Rafiganj,
District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary department of Education Government of Bihar.
2. The District Magistrate, Aurangabad.
3. The Sub-Divisional Officer Aurangabad at Aurangabad.
4. The District Education Extension Officer, Aurangabad.
5. The Block Education Officer Madanpur Block, District- Aurangabad.
6. The Member Secretary Cum Block Development Officer, Madanpur, Aurangabad.
7. The Incharge Headmaster, Rajkiya Madhya Vidyalay, Uddhan Bigha, Madanpur, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tej Narayan Singh, Advocate
For the Respondent/s : Mr. Ga7-S.P.Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 05-12-2018 Heard learned counsel for the parties.

The factual dispute as to validity of the appointment of the petitioner cannot be decided in the present proceeding under Article 226 of the Constitution.

Learned counsel appearing for the petitioner submits that the appointment of the petitioner is legal and valid whereas counsel for the respondents are maintaining the stand in the counter affidavit that the petitioner has obtained appointment on



the basis of forged documents. Such serious disputed question of fact cannot be decided however, the Court finds substance in the submission of the petitioner that before taking any decision the respondents have to provide opportunity of hearing to the petitioner. The instant writ petition is filed for direction to the respondents to make payment of salary after quashing of the order contained in Annexure-9 dated 17.1.2014. It is true that any decision adverse to the interest the incumbent passed without opportunity of hearing is unsustainable. In a situation where the allegation is obtaining appointment on the basis of forged documents, the Court cannot issue any positive direction for payment of salary however, in the peculiar facts and circumstances the Court directs the District Programme Officer (Establishment) to see that proper inquiry in the matter of legality and validity of the appointment of petitioner is completed within a period of four months from the date of receipt/production of a copy of this order.

The claim of the petitioner for continuinity and payment of salary shall abide by the decision taken by the District Programme Officer on the basis of the inquiry after providing opportunity of the hearing to the petitioner. The respondent shall strictly adhere to the time frame as indicated



hereinabove in the matter of deciding the legality and validity of the appointment of the petitioner and also with regard to grant of consequential benefits pass appropriate order within the time frame as indicated hereinabove.

With the aforesaid the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

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