

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19801 of 2011

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1. Abnindra Kumar S/O Ramudar Prasad Singh Resident Of Village + P.O.
Pabhangama, P.S./Block Riga , Distt- Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Bihar State Human Resources Development Department, Govt. Of Bihar, Patna
3. The Director, Primary Education Department, Govt. Of Bihar , Patna
4. The Member, District Teacher Employment Appellate Authority, Sitamarhi
5. The District Superintendent Of Education, Sitamarhi
6. The Block Development Officer, Riga, Sitamarhi
7. The Block Education Extension Officer, Riga, Sitamarhi
8. The Mukhiya, Gram Panchayat Raj Pabhangama, P.S./Block - Riga, Distt- Sitamarhi
9. The Panchayat Secretary, Gram Panchayat Raj Pabhangama, Block/P.S. Riga, District - Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Onkar Kumar
Mr. Rajendra Pd. Singh, Sr. Adv.
Mr. Nirala Kr. Singh, Adv.

For the Respondent/s : Mr. S.A. Alam Sc3

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 20-06-2018 Heard learned counsel for the petitioner and counsel appearing on behalf of the State.

This writ application was filed in the year 2011 for quashing of the order as contained in Annexure '5' whereby the service of the petitioner has been dispensed with purportedly on the direction to the Principal Secretary of the Department. Petitioner was appointed as Panchayat Shikshak pursuant to the selection process.



At the relevant time, there was no requirement that only 10 teachers should be appointed. While passing order contained in Annexure '5' the Panchayat Sachiv has acted as the dictate of the Principal Secretary, Human Resource Department.

Learned senior counsel appearing on behalf of the petitioner has advanced two fold submission – firstly, he submitted that order was passed in violation of principal of natural justice as no inquiry was held and without giving any opportunity of hearing, the impugned order contained in Annexure '5' was passed. Secondly, he submitted that where the Rule provides for appointment to trained as well as untrained. Respondents are required to provide opportunity of hearing and only after providing opportunity of hearing, they were required to pass any order as such order suffers civil consequences which cannot be sustained without compliance of natural justice.

In the present case, the respondents have not given any opportunity. In addition thereto, the order was passed at the dictate of the Principal Secretary of the department.

In the case of *H.L. Trehan Vs. Union Of India AIR 1989 568*, the Hon'ble Apex Court has categorically held out that no order visiting and civil consequences can be passed without opportunity of hearing to the petitioner.



In view of the above, the Court is of the view that the order contained in Annexure ‘5’ cannot sustain. In addition thereto, the order was passed on the dictate of the Principal Secretary, the Apex Court has settled this principal way back in the year 1970 in the case of *Purtabpore Co. Ltd vs Cane Commissioner Of Bihar* reported in AIR 1970 SC 1896.

In view of the above, the order as contained in Annexure ‘5’ (dated 30.07.2011) and appellate order as contained in Annexure ‘1’ (dated 17.09.2011) cannot sustain and as such both the orders are quashed. Respondents are directed to reinstate the petitioner with all consequential benefits within three months from the date of receipt / production of the copy of this order.

With the aforesaid, writ application is allowed and disposed of.

(Anil Kumar Upadhyay, J)

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