

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14211 of 2007

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Rakesh Ranjan Roy @ Rakesh Ranjan, Son of Sri Rajani Kant Ray, Resident of
Village- Bhiraha, P.S.- Rosara, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner-cum-Secretary, Human Resources Development
Department, Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The District Superintendent of Education, Samastipur.
5. The Block Development Officer, Rosara, Samastipur.
6. The Block Education Extension Officer, Rosara, Samastipur.
7. The Mukhiya of Gram Panchayat, Bhiraha, East, Rosara, Samastipur.
8. The Panchayat Secretary, Gram Panchayat, Bhiraha, East, Rosara, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Rajeev Kumar Singh, Advocate

For the Respondent/s : Mr. (GP22)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 18-07-2018

Pursuant to the order of the Full Bench dated
15.05.2014, the matter was listed for admission before the writ court.

2. The grievance of the petitioner in the present writ
application is that the Block Development Officer, Rosara,
Samastipur has cancelled the appointment of the petitioner as Shiksha
Mitra vide order dated vide order dated 24.08.2007 at the dictate of
the District Magistrate, Samastipur dated 13.08.2017.

3. Mr. Rajendra Prasad Singh, learned senior counsel
for the petitioner submits that the post of Shiksha Mitra came to an
end by virtue of operation of 2006 Rules and the petitioner became



Panchayat Teacher w.e.f. 01.07.2006. He submits that once the petitioner acquires the status of Panchayat Teacher, the Block Development Officer has no jurisdiction to pass the order of termination on the dictate of District Magistrate.

4. In view of the judgment of the Apex Court, the decision taken at the dictate of the superior is nullity. Reference may be made in the case of **Purtabpore Co. Ltd vs. Cane Commissioner Of Bihar & Ors**, reported in **AIR 1970 SC 1896**. The other issue raised by Mr. Singh is also covered by the judgment of the Full Bench of this Court in the case of and **Kalpana Rani vs. State of Bihar & Ors.**, reported in **2014(2) PLJR 665**.

5. Since the post of Shiksha Mitra ceased after coming into force 2006 Rules, whereby the Shiksha Mitra were absorbed as Panchayat Teacher, the District Magistrate or the Block Development Officer has no jurisdiction to terminate the petitioner finding fault in the appointment as Shiksha Mitra, as petitioner has acquired the status of Panchayat Teacher and only in accordance with the Rule any action against the petitioner is sustainable in the law. The action of the District Magistrate and at his dictate the action of the Block Development Officer is totally without jurisdiction. Accordingly, the order contained in Annexure-1 and the follow up order as contained in Annexure-1/A are hereby quashed.



6. The respondents are directed to treat the petitioner as Panchayat Teacher and grant all the consequential benefit as Panchayat Teacher.

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

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.07.2018
Transmission Date	

