

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22281 of 2014

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Akhileshwar Kumar Singh Son of Late Chandra Deo Singh Resident of
village - Kushi, Tole Koiridih, P.S. Mufassil, District - Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education,
Govt. of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The District Education Officer, Aurangabad null null
4. The District Programme Officer, Aurangabad
5. Block Education officer, Aurangabad
6. The Secretary, District Lok Shiksha Samite, Aurangabad
7. The Mukhiya, Bela Gram Panchayat, District Aurangabad
8. The Headmaster Cum Member of Lok Shiksha Samitti Govt. of Middle
School, Bela

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamendra Pd. Singh, Advocate
For the Respondent/s : Mr. Manoj Kumar Sinha, AC to GA-9.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 25-09-2018

Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Petitioner is aggrieved by the order contained in
Annexure-3 dated 27.01.2012 issued by Secretary, District Lok
Shiksha Samiti, Aurangabad whereby appointment of the
petitioner was cancelled holding that the appointment of the
petitioner on the post of 'Prerak' was made B.C. female.

3. Learned counsel appearing on behalf of the
petitioner submits that petitioner was selected vide Annexure-1
as senior Prerak and one Archana Kumari was appointed as



Prerak against reserved quota although Archana Kumari belongs to general category. The petitioner as well as Archana Kumari started working. Thereafter, a complaint was made with regard to irregularity in the selection process of the petitioner and Archana Kumari. Later on, petitioner was removed from the post of Prerak.

4. Learned counsel submits that in the matter of termination of the petitioner no opportunity of hearing was provided to the petitioner and therefore, the order contained in Annexure-3 whereby the petitioner has been terminated is unsustainable in law.

5. Learned counsel submits that petitioner has not been paid salary/honorarium for the period the petitioner has worked as senior Prerak.

6. So far as claim of the petitioner for payment of salary/honorarium is concerned, if the petitioner has worked, he is entitled to payment of salary and respondents cannot take work and deny salary/honorarium and as such respondents have to determine the entitlement of the petitioner for payment of salary/honorarium for the period the petitioner has actually worked.

7. From the counter affidavit, it appears that there are



rival contentions as to the post on which the petitioner was appointed is serious disputed question of fact as to the appointment of the petitioner and the category whether reversed or general cannot be adjudicated in the present proceeding and as such the Court is not in a position to grant any positive relief in the matter of order of termination of the petitioner. However, liberty shall be available to the petitioner to approach the District Programme Officer (literacy), Aurangabad with other relevant document to demonstrate that he was appointed in the general category and not against reserved category.

8. In the event, the District Programme Officer (literacy), Aurangabad on verification of record finds that the petitioner was appointed against general category and not against reserved category he shall pass appropriate corrective order on the representation of the petitioner within a period of four months from the date of receipt/production of a copy of this order.

9. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2018
Transmission Date	

