

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11796 of 2014

=====

Ram Bilas Paswan, Son of Late Jyoti Paswan, resident of Villae- Udapatti,
P.S. Musharigharari, P.O. Bathuwa- Bujrga, Dist. Samastipur at present
dismissed Headmaster, Middle School, Harpur Pusa, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Samastipur.
2. Director (Primary Education), Bihar, at New Secretariat Patna.
3. District Education Officer, Samastipur.
4. District Programme Officer (Establishment), Samastipur Cum
Conducting Officer.
5. Distinct Programme Officer (Secondary Education), Samastipur.
6. Block Education Officer Pusa Cum Upsthapana Padadhikari, Dist.-
Samastipur.
7. Deputy Superintendent of Education, district Programme Officer,
(Establishment) Samastipur Cum Enquiry Officer.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Uma Kant Verma, Advocate
For the Respondent/s	:	Mr. Nagendra Prasad Yadav, SC-23. Mr. Ranvijay Singh, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 25-08-2018 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner is aggrieved by the order contained in
Annexure-9 dated 17.05.2014 whereby the District Education
Officer, Samastipur has passed order of dismissal of the
petitioner from the service. The office order dated 17.05.2014
contained in Annexure-9 indicates that the petitioner was under
suspension on the basis of trap in which he was caught red
handed. For conducting departmental enquiry against the
petitioner, the District Programme Officer, Secondary Education



was appointed as enquiry officer. The enquiry officer has submitted the report only on the point of his involvement in withdrawing amount for payment of superannuated teachers without sanction of leave salary but the amount was not paid to the teachers concern. On the point of allegation of taking bribe the enquiry officer noted that matter is pending before the competent Court and as such no report can be submitted on that point.

Learned counsel submits that the enquiry report was not provided to the petitioner he further submitted that in fact the enquiry was in conclusive as no definite finding was recorded by the enquiry officer in relation to the charges on which the petitioner was subjected to departmental proceeding.

He further submits that the copy of enquiry report was never served on the petitioner along with copy of second show cause notice and as such the order of dismissal is unsustainable.

The issue of requirement of service of second show cause notice with copy of enquiry report is no more res integra. The Apex Court has the occasion to decide the issue in the case of **Union Of India And Ors vs Mohd. Ramzan Khan 1991 AIR 471**, which was approved by the Constitution Bench of the Apex Court in the case of **Managing Director, ECIL,**



**Hyderabad and Others vs. B. Karunakar and Others ,
(1993) 4 SCC 727.**

In view of the law laid down by the Apex Court in the case of Ramzan Khan and B. Karunakar (supra) the decision of the respondent dismissing the petitioner without following the principles laid down by the Apex Court in the judgment mentioned hereinabove is unsustainable. Accordingly the office order contained Annexure-9 cannot sustain and it is accordingly quashed. However quashing of Annexure-9 will not dis entitle to respondent from taking fresh decision in accordance with law.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

banti/-

U			
---	--	--	--

