

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11225 of 2016

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Md. Tafajjul Haque, son of Late Naushad Ali, Resident of Gram Kewala,
P.O.- Kehunia, P.S.- Pranpur, District Katihar

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Primary Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Primary Education, Government of Bihar, Patna.
3. The District Magistrate, Katihar.
4. The Block Development Officer, Pranpur Block, Katihar.
5. The District Programme Officer (Establishment Education) Katihar.
6. The Panchayat Secretary, Gram Panchayat Raj, Kewala, Block Pranpur, Katihar.
7. The Mukhiya, Gram Panchayat Raj, Kewala, Block- Pranpur, Katihar.
8. Birendra Kumar Keshri, son of Deen Dayal Sah, Resident of Village Jharnatola, P.O. Kehunia, P.S. Pranpur, District Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amish Kumar, Advocate
For the Respondent/s : Mr. Sc2- Nawal Kishore Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 24-04-2018 The order of the termination in a departmental proceeding was issued purportedly on the direction of this Court in CWJC No.14838 of 2008.

Mr. Amish Kumar, learned counsel appearing on behalf of petitioner submits that the petitioner was not party in that writ application, apart from the fact that he was not a party there no lis involving the category to which the petitioner belongs. There was controversy with regard to OBC Category, whereas the present petitioner belongs to Backward Class Category and as such there was not even remotest concerned of



the petitioner of this court with petitioner of other writ petition, bearing C.W.J.C. No. 14838 of 2008. So far as the Backward Class Category candidate is concerned, the dispute was confined to the category OBC above. The respondents presumably acted under the authority of the direction issued in CWJC No.14838 of 2008 and proceeded against the present petitioner and petitioner has been terminated in the present case.

In the present case, the Court granted interim relief in the nature of stay of the order contained in Annexure-13 of the writ application dated 10.5.2016. The Court issued notice to respondent no.8 as the entire action was taken by the official respondent against this petitioner on the representation made by respondent no. 8.

Counsel appearing on behalf of respondent no.8 submits that he has no grievance against the present petitioner. In the earlier writ petition he has never raised any objection as to the appointment or validity of the appointment of this petitioner. He submitted that the petitioner belongs to a different category, whereas the respondent no.8 belongs to different category, there was no occasion for respondent no.8 to challenge the legality and validity of the appointment of this petitioner in any manner, as he is not going to gain anything



even on replacement of the present petitioner.

The counsel for the State submits that the entire action was taken purportedly on the basis of complaint made by respondent no.8 against the present petitioner. However, he failed to substantiate either from the writ petition or from the order of the previous writ application or the complaint that he has made any specific allegation against the legality and validity of the appointment of the petitioner.

Considering the totality of the facts situation enumerated herein above, the court is of the view that there was absolutely non application of mind by the respondent while taking decision contained in Annexure-1 as the petitioner of CWJC No.14838 of 2008 never made any objection against this petitioner in the writ application and as such he has not even impleaded the present petitioner as party respondents in that case. In that view of the matter order contained in Annexure-13 is arbitrary and unsustainable.

In addition thereto, the Court notices that the petitioner and respondent no.8 belong to two different category, there was no conflict of interest which was the basis of adjudication in the writ application and the decision contained in Annexure-13, the Court finds substance in the submission of



petitioner that the order contained in Annexure-13 is unsustainable and apparently arbitrary and without application of mind. For the reasons mentioned hereinabove, Annexure-13 is hereby quashed. The petitioner is hereby directed to be reinstated in service with all consequential benefits.

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

(Anil Kumar Upadhyay, J)

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