

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19881 of 2015

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Smt. Malti Kumari, D/o Munilal Ram resident of Mohalla- Bari Pahari
Mansoon Nagar Soh Sarai P.S. Biharsharif, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna
3. The Director, Primary Human Resources Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna-1
4. The Joint Secretary, Human Resources Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna.
5. Sri Surendra Kumar, The District Programme Officer, Establishment, Nalanda at Bihar Sharif
6. Sri Yogesh Chandra Singh, The District Education Officer, Nalanda at Biharsharif
7. The District Superintendent of Education, Nalanda
8. The Secretary, Faizanul-o-loom Urdu Girls Middle School, Mohalla- Laheri, P.S.- Biharsharif, District- Nalanda
9. The Headmaster Faizanul-o-loom Urdu Girls Middle School, Mohalla- Laheri, P.S.- Biharsharif, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman, Advocate
For the Respondent/s : Mr. Aag11- Ashok Kumar Keshari

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 11-12-2018 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Petitioner is aggrieved by the order contained in



Annexure -9 whereby the District Education Officer, Nalanda at Bihar Sharif has cancelled the earlier decision of granting approval of the service of the petitioner Malti Kumari vide memo No.1758 dated 02.12.2015. Ex facie The Court is of the view that the District Education Officer does not hold the appellate power, the Court is also of the considered view that decision of the District Education Officer granting approval of the service cannot be cancelled once it is granted and acted upon as such action tantamounts to review of the previous decision and there is no such power vested in the District Education Officer to review the decision granting approval of the service of the petitioner. Similar issue was examined by this Court in the case of Sarwat Afroz in C.W.J.C. No. 448 of 2016 where the Court noticing the case of denial of principles of natural justice and considering the judgment of Basudeo Tiwari case the order was held as violative of principles of natural justice and accordingly quashed. For the reasons mentioned in C.W.J.C. No. 448 of 2016 and also on consideration of reasons as discussed hereinabove, the order contained in Annexures-9 and 10 cannot sustain, it is accordingly quashed. On quashing of Annexures-9 and 10 necessary decision granting consequential benefits may be taken by the respondents at the earliest within a maximum



period of four months from the date of receipt/production of a
copy of this order.

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

(Anil Kumar Upadhyay, J)

T.Kr./Rashid

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