

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1516 of 2016

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Priti Priyadarshini Wife of Manjay Kumar Resident of village - Bakhari, P.S.
Sursand, District - Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, Patna
4. The District Magistrate, Sitamarhi, District - Sitamarhi
5. The Deputy Development Commissioner, Sitamarhi, District - Sitamarhi
6. The District Education officer, Sitamarhi, District - Sitamarhi
7. The District Programme officer, Eastablishment, Sitamarhi, District Sitamarhi
8. The Block Development officer, Block - Parihar, District - Sitamarhi
9. The Block Education officer, Block - Parihar, District - Sitamarhi
10. The Panchayat Secretary, Gram Panchayat Raj Sutihara, Block - Parihar, District - Sitamarhi
11. The Mukhiya, Gram Panchayat Raj Sutihara, Block - Parihar, District - Sitamarhi
12. Pushpa Bharti Wife of Ranjit Singh Resident of village - Adkhani, P.O. & P.S. Parihar, District - Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar
For the Respondent/s : Mr. Gp7- D.K. Prasad

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 11-09-2018

The learned counsel for the parties are in agreement that the inquiry conducted by the District Education Officer, Sitamarhi and the inquiry report submitted by the said Officer, which is dated 10.11.2014, is required to be set aside in view of the fact that the original records of the case / selection process was with the learned State counsel and the same had been transited back only on 05.12.2014, hence, in absence of the



original records of the selection process, the inquiry could not be held, hence, the inquiry report is perverse and non est in the eyes of law, consequently, the order passed by the Principal Secretary, Education Department, dated 25.11.2015 is fit to be set aside.

I have heard the learned counsel for the parties and since the learned counsel for the parties do not dispute the fact that the inquiry report dated 10.11.2014 is required to be set aside in view of the same having been submitted without going through the original records, I deem it fit and proper to quash the inquiry report dated 10.11.2014, consequently, the order passed by the Principal Secretary, Education Department, dated 25.11.2015 is also quashed and the matter is remanded back to the Principal Secretary, Education Department for conducting an inquiry and passing final order, as directed by the learned Division Bench of this Court by a judgment dated 04.09.2013 passed in L.P.A. No. 386 of 2013, relevant portion whereof is quoted hereinbelow:-

“We therefore direct the Principal Secretary, Department of Panchayati Raj, to hold an enquiry himself or to have it conducted through any Class-I Gazetted Officer only. The enquiry shall examine the entire original selection records and provide hearing to the parties with opportunity for cross examination. The claims of the appellant and respondent no. 10 shall abide by the result of such enquiry. If the principal Secretary is satisfied of irregularities



in the selection process with regard to either of them or both he shall also take appropriate action under the laws of the land against those responsible for it.”

It may be mentioned that the direction issued by the learned Division Bench had stood corrected by an order dated 26.02.2014 and direction was issued to the Principal Secretary, Education Department, to hold inquiry and pass the final order.

It is expected that the Principal Secretary, Education Department would examine the complete records of the case / selection process, grant an opportunity of personal hearing to the affected parties and thereafter, take a final decision within a period of eight weeks from today.

In the meantime, it is directed that Smt. Pusha Bharti shall continue on the post of Panchayat Teacher and her appointment would be dependent on the final order to be passed by the Principal Secretary, Education Department.

The writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.09.2018
Transmission Date	NA

