

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14814 of 2013

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Ramesh Kumar Thakur, S/O Late Mahadeo Thakur, resident of Village- Babu Tola Paithanpura, P.O+ P.S- Kahalgaon, District- Bhagalpur, Presently posted as Head Assistant S.S.V. College, Khalagoan.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. The Vice- Chancellor, T.M. Bhagalpur University, Bhagalpur.
4. The Registrar, T.M. Bhagalpur University, Bhagalpur.
5. The Finance Officer, T.M. Bhagalpur University, Bhagalpur.
6. The Principal, S.S.V. College, Khalagoan, Bhagalpur.
7. Panchanand Thakur, Assistant, S.S.V. College, Khalagoan, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh
For the Respondent/s : Mr. Shail Kumari

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 01-10-2018

Heard learned counsel for the petitioner and learned counsel for the State.

2. Petitioner is aggrieved by the office order No. 219 contained in Annexure-10 dated 19.07.2013.

3. Mr. Yugal Kishore, learned senior counsel appearing on behalf of the petitioner submits that Annexure-10 is an order reverting the petitioner and the same was passed without opportunity of hearing.

4. From perusal of Annexure-10, it appears that not only on the ground of lack of educational qualification but at the same time financial irregularities is the reason for passing the order contained in Annexure-10. Respondents have filed counter



affidavit in the instant case. Respondents have submitted that the petitioner has no requisite qualification for the post of Assistant and he was involved in misappropriation of fund as such the action of the respondents is justified.

5. It appears from the record that the respondents have taken action on the basis report of One Man Committee. There is no averment to indicate that the One Man Committee has provided opportunity of hearing before recording finding against the petitioner. In para-23, there is specific statement in the writ application that the action of the respondents is in complete violation of the natural justice. In reply, the respondents have stated in para-23 of counter affidavit that the statements made in para-19 and 23 are misleading, there is no specific reply controverting the statement made in Para-23 of the writ application.

6. In view of the undisputed fact that the order contained in Annexure-10 was issued without giving opportunity of hearing to the petitioner, the order contained in Annexure-10 cannot sustain. Accordingly, Annexure-10 is quashed.

7. The issue whether the petitioner answered the academic requirement for the post of Assistant, the Court is of



the view that petitioner may represent the University and if it is found that the qualification of Intermediate which the petitioner is holding is requisite qualification, the respondents, while taking a fresh decision in the matter of the petitioner, consider the same and restore promotion.

8. In the event, the respondents proposes to take any action against the petitioner after quashing of Annexure-10, they are required to provide full opportunity of hearing to the petitioner for taking action against him as quashing of Annexure-10 will not refrain the respondents from taking fresh decision in accordance with law after following the procedure consistent with the principles of natural justice. The petitioner shall have liberty to persuade the respondents that the qualification which he is holding is sufficient for the purpose of promotion.

9. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

