

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20449 of 2010

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Umme Salma Jamal, D/o Md. Mojibur Rahman, resident of Village- Kalabari, P.S.- Mahalgaoon within Jokihat Block, Distt.- Araria, at Present Working as Panchayat Shikshak, Primary School, Kelabari within Jokihat Block, Distt.- Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna
3. The Director (Primary Education), Human Resources Development Department, New Secretariat, Patna
4. District Magistrate, Araria
5. District Superintendent of Education, Araria
6. Block Development Officer, Jokihat, Araria
7. Block Education Extension Officer Jokihat, Araria
8. The District Teachers Appointment Appellate Tribunal, Araria, Distt.- Araria through its Members
9. Gram Panchayat Raj Choukta, through its Mukhiya Jokihat Block, P.S.- Jokihat, Distt.- Araria
10. The Mukhiya, Gram Panchayat Raj, Choukta Within Jokihat Block, Distt.- Araria
11. Panchayat Secretary, Gram Panchayat Raj, Choukta within Jokihat Block, Distt.- Araria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr. Pranav Kumar Jha, Advocate

For the Respondent/s : Mr. SC- 8

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date: 18-06-2018

Heard learned counsel for the petitioner and State.

Petitioner is aggrieved by the order contained in Annexures-8, 9 and 10 passed by the District Teachers Employment Appellate Authority, Araria, District Superintendent of Education, Araria and Block Education Extension Officer, Jokihat, Araria, as a follow up order of the District Teachers Employment Appellate Authority, Araria (Annexure-8).

The only submission which requires consideration in



the instant case is whether the order of termination can be passed with retrospective effect. The law is well settled that termination order cannot be passed with retrospective effect.

In view of the settled proposition of law, the order terminating the petitioner with retrospective effect is unsustainable. In addition thereto, the learned counsel for the petitioner submits that the petitioner was condemned unheard and he was not given proper opportunity to defend his case before passing the impugned order. The law in this regard is well settled that no order visiting evil or civil consequence can be passed. Reference in this connection may be made to the judgment of the Apex Court in the case of **H.L. Trehan and Ors. Etc vs. Union of India and Ors.** reported in **AIR 1989 SC 568.**

In view of the aforesaid, the order as contained in Annexures 8, 9 and 10 cannot sustain and are, accordingly, quashed. The respondents are directed to reinstate the petitioner with all consequential benefits within a period of 60 days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application is allowed.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.06.2018
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