

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9985 of 2016

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1. Shankar Singh, S/o Sri Nagina Singh, resident of Village-
Paithanpatti, P.S.-Manjha, District-Gopalganj.
 2. Mukti Nath Tiwary, S/o Late Shyamlal Tiwary, resident of
Village- Hajiapur, Ward No.10, P.S.& District- Gopalganj

... .. Petitioners

Versus

1. The State of Bihar through, the Principal Secretary, Department of General
Administration, Government of Bihar, Patna.
2. The Commissioner, Saran Division, Saran
3. The District Magistrate-cum-Collector, Gopalganj
4. The Additional Collector, Gopalganj
5. The Deputy Collector(Establishment), Gopalganj
6. The Civil Surgeon, Gopalganj

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Raj Kishore Prasad, Advocate Mr. Jitendra Kumar Shrivastava, Advocate
For the Respondent/s	:	Mr. Harish Kumar, GP- 8

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 09-10-2018

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

2. In this case, the petitioners are challenging the
orders containing memo nos.954 and 956 both dated
26.03.2012, whereby and whereunder the appointment of these



petitioners having been cancelled on the ground of submission of forged certificate.

3. The petitioners were appointed as Class-IV employees. An advertisement was published on 14.06.2001 for preparation of panel for appointment of Class-IV employees in different offices of the State Government in the district of Gopalganj. A writ petition being C.W.J.C. No.10444 of 2005 was filed by those persons who were not selected, making prayer for quashing the panel. The said writ petition was disposed of with a direction to the respondents to prepare a fresh panel. The matter went to the Division Bench in Letters Patent Appeal No.1274 of 2009 and 1346 of 2009, the Division Bench affirmed the order of the Single Bench. After disposal of the case, a fresh panel was prepared and 65 persons including the petitioners were appointed. However, by the impugned orders the appointment of these petitioners having been cancelled on the ground of submission of forged certificate. It appears that the petitioners were terminated from the service by a cyclostyle order, making allegation of submission of forged education educational certificate.

4. The original admission register of Panchayat High



School, Mishra Badraha, Phulwaria, Gopalganj for the period of 1994-99 has been produced before this Court, in which the name of petitioner no.1 has not been enrolled as a student of the school, but he has obtained the certificate of 8th Class pass from that school. Similarly the original admission register of V.M. High School, Gopalganj for the year 1981-83 has been produced before this Court for perusal. On perusal of the same, it appears that the name of the petitioner no.2 i.e. Mukti Nath Tiwary, has been added at serial no.90, but any layman with naked eyes can say that tampering has been done as it appears that the name of petitioner no.2 has recently been added as the manner of writing and the ink are completely different, which cannot be a basis for showing that he was admitted in the said school.

5. Learned counsel for the petitioners submits that the name of the petitioner no.2 is standing in the attendance register, might be due to the mistake his name was left out and when the authority could know then necessary correction has been done.

6. If the name is not there and tampering has been made in the admission register, then it is highly reprehensible act that should not have been done by the school authority, which leads to only an inference that the petitioner has acquired



the certificate in a fraudulent manner.

7. This Court has examined the original record, as the name of the petitioner no.1 is not there in the admission register whereas the petitioner no.2 is there but it appears to be a tampered entry of the name of the petitioner no.2, which cannot be given a legal sanity as fraud vitiates everything at any stage and at any point of time. Even after long lapse of time, it transpires that the person obtained the benefit by tampering the record, he should be deprived of the benefit secured through fraud and in case of any fraud the question of following the procedure for termination of service is not applicable because it is void appointment, in case of voidness, there is no need to conduct a full fledged departmental inquiry. Further, it has been submitted that the petitioners were given the show-cause notice and only thereafter the appointment of these petitioners having been cancelled. This Court finds sufficient compliance of the natural justice has been observed and the action taken by the respondent authority cannot be said to be illegal.

8. In such view of the matter, this Court does not find any merit in this writ petition, accordingly, the same is dismissed.



9. The original admission registers produced before this Court for perusal are handed over to learned counsel for the State.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	12.10.2018
Transmission Date	N/A.

