

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.253 of 2018

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Madan Prasad Singh, Son of Late Shukdeo Prasad Singh, Resident of Village-
Tetia, P.O.- Tetia Bamber, P.S.- Sangrampur, District- Munger
... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar New Secretariat, Patna.
3. The Secretary, Education Department, Bihar, Patna.
4. The Director of Primary Education, Govt. of Bihar, New Secretariat, Patna.
5. The Regional Deputy Director of Education, Tirhut Pramandal, Muzaffarpur.
6. District Education Officer, Vaishali at Hajipur.
7. District Programme Officer (Establishment) Vaishali at Hajipur
... Respondents

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Appearance :

For the Petitioner : M/s Ram Hriday Prasad & Sanjiv Kumar, Advs.
For the Respondents : Mr. Amit Bhushan, AC to GA XVII

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 18-06-2018 Heard learned counsel for the petitioner and the State.

In this case the petitioner is challenging the order, dated 11.01.2016, passed by the Director, Primary Education, Government of Bihar, Patna, whereby and whereunder the petitioner has been dismissed from service on the ground of being involved in committing the misconduct as the allegation has been made against the petitioner to have taken bribe of Rs.5,000/- for that he was trapped and arrested led to institution of departmental proceeding and ultimately the enquiry officer submitted the report against him, the disciplinary authority has passed the order of dismissal against the petitioner.

The petitioner approached this Court in C.W.J.C. No.



2937 of 2016, but, this Court instead of going on merit has directed the petitioner to approach and file appeal and the Director was directed to consider the case on merit and pass the order in accordance with law. The petitioner has filed an appeal to the Principal Secretary, Education Department, Government of Bihar, Patna, giving details of facts and the ground what he has taken in, but, it appears that the appeal has not been disposed off by the Principal Secretary, but, he has referred the matter to the Secretary-cum-Appellate Authority, Government of Bihar, who has passed the order, dated 31.10.2017.

From the face, it appears that the appellate authority has passed a cryptic order without discussing the ground which has been taken by the petitioner that the enquiry suffers from illegality as the finding has been recorded on the basis of the three documents, trapped memo, first information report and seizure list, no person came forward to authenticate those records nor given a description of the evidence taken place at the time of trap. Counsel for the petitioner submits that the order of the appellate authority suffers from illegality as no witness of prosecution was examined as it appears that the appellate authority has not applied its mind with regard to the grounds which has been taken by the petitioner.



In such view of the matter, the order, dated 31.10.2017, passed by the appellate authority is **set aside**. The matter is remanded back to the appellate authority, who will consider all the points which has been taken by the petitioner and would pass the order in accordance with law.

For the sake of natural justice, it will be incumbent upon the appellate authority to give an oral hearing to the petitioner and consider all the points which has been taken by the petitioner during the oral hearing and take decision in accordance with law within a period of two months, from the date of receipt/production of a copy of this order.

With these observations and directions, this application is **disposed off**.

(Shivaji Pandey, J)

Shamshad/-

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