

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2378 of 2018

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Babita Kumari, Daughter of Sri Yogendra Bhagat and Wife of Sri Sunil Malakar, Resident of Village-Fariani, P.S. Sri Nagar, District Purnea, at Present Working as Shiksha Mitra at Middle School, Fariani, District Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Secretary.
2. The Secretary to Government of Bihar, Department of Primary and Adult Education in Human Development, Bihar, Patna.
3. The Joint secretary, Department of Human Resources development, Bihar, Patna.
4. The Director of Primary Education Department of Human Resources development, Bihar, Patna.
5. The District Superintendent of Education, Purnea.
6. The Block Education Extension Officer, Sri Nagar.
7. The Head Master at Middle School Fariahini.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dudh Nath Singh, Advocate
For the Respondent/s : Mr. Pramod Kumar Singh, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 04-05-2018 Learned counsel for the petitioner is permitted to implead the District Programme Officer (Establishment), Purnea as party-respondent No. 8 during the course of the day.

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The grievance of the petitioner in the present writ petition is non-implementation of the direction of the Writ Court in CWJC No. 11830 of 2011 dated 23.3.2011 by which a Co-ordinate Bench of this Court had directed reinstatement of the petitioner with consequential benefits from the date of her



removal and also held out that the petitioner is entitled to all benefits including salary from the date of removal. The relevant part of the order dated 23.3.2011 reads as under:-

“This Court has held in many a cases including the case of Indu Devi that acquisition of intermediate degree even beyond 33 months will not be a ground for removal of the appointee on the basis of circular issued by the State Government. If the necessary qualification has been obtained even though beyond the so-called period of 33 months, that cannot be a ground for removal.

Such view has also been upheld in other decision as well. If that be so, then the rationale and the reason given by the Appellate Authority, Purnea for upholding the removal of the petitioner cannot be sustained.

The impugned order contained in Annexure-5 is quashed. Writ application is allowed with a direction upon the respondents to reinstate the petitioner who shall continue on the post since reason for her removal is not sustainable in law.

It goes without saying that since the reason for removal is held to be illegal, petitioner would be entitled to all the benefits including salary from the date of her removal till the



date of reinstatement.”“This Court has held in many a cases including the case of Indu Devi that acquisition of intermediate degree even beyond 33 months will not be a ground for removal of the appointee on the basis of circular issued by the State Government. If the necessary qualification has been obtained even though beyond the so-called period of 33 months, that cannot be a ground for removal.

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It goes without saying that since the reason for removal is held to be illegal, petitioner would be entitled to all the benefits including salary from the date of her removal till the date of reinstatement.”

In case the order dated 23.3.2011 has not been complied with as yet, the respondents are directed to implement



the same forthwith. Any dilly-dally in the implementation of the order shall be viewed seriously. It shall be the obligation of the District Programme Officer (Establishment), Purnea to implement the order of the writ court dated 23.3.2011 and in the event of delay in implementation of the order, the respondent-District Programme Officer beyond 60 days from today, he shall be personally liable for payment of interest at the rate of 9% from the date of reinstatement till the date of payment.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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