

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4377 of 2019

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Harihar Pandey s/o Aradhyapad Pandey, resident of village- Sitalpur, post - Siktia, P.S.- Siktia, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Director human resource Department Govt. of Bihar, Patna.
2. The commissioner -cum- Secretary, Human Resource Department, Government of Bihar, Patna.
3. The District Magistrate, katihar.
4. The District Program Officer, Establishment, Education, katihar.
5. The Block Development Officer, Azamnagar Block, Katihar.
6. The Block Education Officer, Azamanagar Block, Katihar.
7. The Mukhiya, Panchayat Raj, Harinagar, Block Azamnagar, Katihar.
8. The Panchayat Secretary, Panchayat Raj, Harinagar, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Dubey
For the Respondent/s : Mr.Jitendra Kr. Roy 1 (Sc13)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 07-05-2019 The present writ petition has been filed for quashing

Memo no. 87 dated 21.12.2018 issued by the Panchayat

Secretary, Panchayat Raj Harnagar, by which the appointment of

the petitioner has been cancelled.

The learned counsel for the petitioner submits that

after acceptance of joining of petitioner as a Panchayat teacher,

he was being paid salary, however suddenly by the aforesaid

impugned order, the services of the petitioner has been

terminated, without giving any show cause notice or without



initiating any departmental proceeding.

Per contra, the learned counsel for the respondents submits that the petitioner was illegally appointed in the year 2016 against the vacancies of the year 2006, as such the authorities have cancelled the appointment of the petitioner.

This Court finds that the basic fundamental rule of service jurisprudence demands that appropriate show cause notice should have been issued to the petitioner in compliance of the principles of natural justice, before resorting to cancellation of his appointment, even if regular departmental proceeding was not required to be resorted to. However, admittedly in the present case, no show cause has been issued to the petitioner, hence the impugned order dated 21.12.2018 has been passed without complying with the principles of natural justice, thus is *non est* in the eyes of law.

Having regard to the facts and circumstances of the case, the present writ petition is allowed and the order dated 21.12.2018, cancelling the appointment of the petitioner herein, passed by the Panchayat Secretary, Panchayat Raj Harnagar, is quashed, however with liberty to the respondent- authorities to proceed afresh in accordance with law.

It is needless to state that consequential benefits



would abide by the fresh proceedings to be initiated by the respondent- authorities and the conclusion reached at by them in those proceedings. It is further directed that the aforesaid proceedings which are required to be drawn against the petitioner herein, be so drawn and concluded within a period of six months from today, failing which the petitioner shall be entitled to payment of salary right from the date of cancellation of his appointment i.e. w.e.f. 21.12.2018, till date.

(Mohit Kumar Shah, J)

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