

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3742 of 2015

Sanjay Kumar S/o Late Deo Nandan Singh, resident of Village- Munichak,
Post Office- Muzaffara, Police Station- Birpur, District- Begusarai.

... .. Petitioner

Versus

1. The State Of Bihar through the Chief Secretary, Bihar, Patna
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Additional Secretary-cum- Director, Administration, Education Department, Bihar Patna
4. The Regional Deputy Director of Education Munger Division, Munger.
5. The District Education Officer, Munger.
6. The District Mass Education Officer, Munger.
7. The District Programme Officer, Planning and Accounts, Munger.
8. The District Superintendent of Education, Khagariya.

... .. Respondents

Appearance :

For the Petitioner : Mr. Navendu Kumar, Advocate

For the Respondents : Mr. Sanjay Parasmani, AC to GP 4

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 22-02-2019

Heard learned counsel for the petitioner as well as
learned counsel appearing for the respondents.

The petitioner while posted as Sub Divisional Education Officer, Khagaria cum In-charge Officer, Mid Day Meal was proceeded against under charge memo communicated to the petitioner on 1.1.2009. Praptra 'Ka' alleges that ignoring the norms in vogue petitioner has recommended one 'Maya Labour Seva Sansthan', a Non Government Organization (NGO) for executing the mid day meal in urban and semi urban area of Mansi block.

Defence of the petitioner in the enquiry was that prior to his recommendation on 24.11.2006 the District Superintendent of



Education, Khagaria (respondent no.8) under communication dated 20.11.2007 (Annexure 3 to the writ petition) had already issued order in favour of the said NGO granting the responsibility of mid day meal to the said NGO. It is submitted that in view of the aforesaid circumstances and the earlier order of the District Superintendent of Education, Khagaria petitioner could not have been held responsible for granting the work of mid day meal as has been alleged in the charge memo. Specific case of the petitioner before the Enquiry Officer was that the charges were unsustainable in view of the fact that the work was allotted to the NGO under orders of the District Superintendent of Education, Khagaria (respondent no. 8).

Had the authorities taken the trouble to examining the issue with reference to the petitioner's alleged recommendation dated 24.11.2007 and alleged grant of the District Superintendent of Education dated 20.11.2007, the issue could have been decided by the authorities properly. But the same was not done.

Bare perusal of the charge memo shows that in support of the said allegations even the letter/recommendation of the petitioner dated 24.11.2007 has not been produced in the enquiry in support of the charges. It is quite surprising that in support of the charge/allegations the letter which was earlier issued by the



Director, Administration asking a show cause from the petitioner on the same charges at the pre enquiry stage has been produced as evidence. The Enquiry Officer has therefore not considered any evidence in support of the charge whatsoever. Earlier show cause issued by the Director, Mid day Meal at the pre enquiry stage could by no stretch of imagination constitute evidence in support of charge that under communication dated 24.11.2007 the petitioner had made a recommendation in favour of the NGO for discharging the responsibility of mid day meal. In the enquiry report the Enquiry Officer has not even looked into the said two communications dated 24.11.2007 allegedly issued by the petitioner forming the basis of allegation on the letter dated 20.11.2007 issued by the District Superintendent of Education, Khagaria, whereby as per petitioner's case, the work of Mid Day Meal was already granted to the NGO.

In the circumstances, this Court would observe that in the instant case petitioner has been visited with the punishment without even examining any evidence in support of the charges. Report of the Enquiry Officer therefore is clearly unsustainable.

This issue was specifically raised by the petitioner before the Disciplinary Authority that prior to the alleged recommendation made by the petitioner, the District



Superintendent of Education had already issued order on 20.11.2007 allotting the execution of Mid Day Meal to the said NGO. Disciplinary Authority has failed to take into consideration the said plea raised by the petitioner. Order passed by the Disciplinary Authority is therefore not sustainable. Order dated 2.9.2014, issued by the Disciplinary Authority inflicting punishment of withdrawing five increments of pay with cumulative effect is therefore quashed.

Order dated 24.12.2014 issued by the Appellate Authority, affirming the illegal order, therefore is clearly unsustainable and must also meet the same fate. Order of the Appellate Authority dated 24.12.2014 is also quashed.

The Court however observes that this judgment would not preclude the respondent authorities to enquire into the matter afresh considering the relevant materials, if the law so permits.

Writ petition is allowed to the extent indicated above.

(Madhuresh Prasad, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.02.2019
Transmission Date	NA

