

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14952 of 2017

Along with
Interlocutory Application No. 2 of 2019

Prativa Rani D/o Bijoy Kumar Vikal, Wife of Ashok Kumar Panjiyara, R/o
Village Post P.S.- Asarganj, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Inspector General of Police, Vigilance Investigation Bureau, Govt. of Bihar, Patna.
5. The S.P., Vigilance Investigation Bureau, Govt. of Bihar, Patna.
6. The Sub Inspector of Police, Vigilance Investigation Bureau, Camp. Patna namely Mr. Rahmat Ali.
7. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
8. The Director, Primary Education Department, Govt. of Bihar, Patna.
9. The District Education Officer, Munger.
10. The District Programme Officer Establishment, Munger.
11. The Panchayat Niyojan Unit, Gram Panchayat Rahmatpur, Block- Asarganj, District- Munger, through its Panchayat Secretary.
12. The Mukhiya, Gram Panchayat Rahmatpur, Block- Asarganj, District- Munger.
13. The Bihar School Examination Board, Patna, through its Secretary.
14. The Chairman, Bihar School Examination Board, Patna.
15. The Principal, St. Mary's W.P.T.T. College, B. Deoghar- 814112, Jharkhand.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Purushottam Kumar Jha, Advocate
For the State	:	Mr. AC to SC 28
For the Vigilance	:	Mr. Anjani Kumar, Sr. Advocate
For the BSEB	:	Mr. Girijesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 25-09-2019



Heard Mr. Purushottam Kumar Jha, learned counsel for the petitioner; learned AC to SC 28 for the State; Mr. Anjani Kumar, learned senior counsel for the Vigilance Department and learned counsel for the Bihar School Examination Board.

Re.: Interlocutory Application No. 2 of 2019

2. The present Interlocutory Application has been filed seeking amendment in the writ petition.

3. Learned counsel for the petitioner submitted that after filing of the application, the allegation of the petitioner possessing forged certificates with regard to her qualification has been proved to be incorrect and because of the same as Asarganj PS Case No. 72 of 2017 had been filed, a further relief is sought in the present application with regard to quashing of the First Information Report of the aforesaid police case and the entire prosecution based on such lodging of the FIR.

4. In view of the fact that the amendment sought has a direct nexus to the relief claimed in the main writ petition, the prayer made in the Interlocutory Application stands allowed.

5. The relief sought for in paragraph no. 1 of the Interlocutory Application shall form part of the reliefs sought in the main writ petition.



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6. The petitioner had moved the Court for the following reliefs:

*“i. Issuance of an order, Direction or a Writ in the nature of Certiorari **Quashing Letter No. 1468 dated 01.07.2017 (Ann-10)** issued by the Respondent No. 10, whereby and where under the Respondent no. 11 has been directed to terminate the services of the petitioner as Panchayat Teachers, which has been made by the authority competent vide Ann-5 to this writ petition, that too, after following the due procedure of selection.*

ii. To hold and declare that in view of the factual and legal position emerging from Annexure Nos. 2, 3,4, 8, 9 and 11 to this writ petition, the Degree of Petitioner's Teachers Training Course from St. Mary's P. T. E. College, Deoghar as contained in Annexure-1 Series is valid, lawful and bonafide.

AND CONSEQUENT UPON SUCH DECLARATION

iii. This Hon'ble Court may further be pleased to hold and declare that the initial appointment of the petitioner as Panchayat Teacher in Gram Panchayat Raj -Rahmatpur, Block -Asarganj, District-Munger is valid, lawful and bonafide and the same does not suffer from any irregularity/illegality/infirmity.

AND CONSEQUENT UPON SAID DECLARATION

iv. A writ in the nature of Mandamus may kindly be issued by this Hon'ble Court directing the Respondents concerned to allow the petitioner to perform her duty as Panchayat Teacher in Gram Panchayat Raj- Rahmatpur, Block-Asarganj, District-Munger without any hindrance/obstruction from any corner.



v. To hold and declare that the Respondent no. 6 had lodged the F.I.R. in hand against the petitioner in a complete illegal, arbitrary, malafide, malicious and mechanical manner and the said F.I.R. has been lodged without making any enquiry either from the office of the Respondent No. 13 or from the College in hand from where the petitioner has passed her Teacher's Training Course Examination.

vi. For grant of any other relief or relief(s) to which the petitioner may be found entitled to in the facts and circumstances of this case.

Reliefs of Interlocutory Application No. 2 of 2019

i. Issuance of an Order, Direction or a Writ in the nature of Certiorari Quashing the First Information Report being Asarganj P.S. Case No. 72/17 dated 16.06.2017 (Annexure-7 at Page No. 37 to 48 of the main Writ Petition) as well as, all follow up actions taken against the petitioner on the basis of the said Asarganj P.S. Case No. 72/17 dated 16.06.2017, since the respondents concerned have admitted before this Hon'ble Court that the basis upon which the petitioner has been made an accused in the said criminal case is without any basis.

ii. For grant of any other additional relief or relief(s) to which the petitioner may be found entitled to in the facts and circumstances of this case."

7. During course of the proceeding, upon the Court calling upon the Vigilance Department to submit a fresh report with regard to its earlier finding of the qualification held by the petitioner to be forged and fabricated, it has now come on record that the said certificates of the petitioner were genuine. The respective parties, including the State authorities; Vigilance



Department as well as the Bihar School Examination Board have certified from the relevant records with regard to the genuineness of the certificate/qualification possessed by the petitioner, on the basis of which she had been appointed as Panchayat Teacher.

8. Today, affidavit has been filed on behalf of the Vigilance Department, basically in response to Interlocutory Application No. 2 of 2019 filed on behalf of the petitioner. In the same, the following stand has been taken at paragraph no. 7:

“7. That in reply of the prayer made in interlocutory application by the petitioner, it is humbly submitted that Vigilance Investigation Bureau has no objection if the F.I.R. bearing Asarganj P.S. Case No.- 72/2017 is being quashed, because of the fact that the certificates as well as the institution from where the petitioner obtained certificate was found to be genuine. The said report regarding genuineness of the certificate and institution has already been submitted by the Bihar School Examination Board on oath before the Hon’ble High Court.”

9. Further, counter affidavit has been filed on behalf of the Superintendent of Police, Munger. However, learned counsel for the State sought permission to make correction by deleting certain portion of paragraph no. 7 of the affidavit. Let the same be done during the course of the day. In the same, it has been stated



that an application has been filed under Section 173 (8) of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') seeking permission to re-investigate Asarganj PS Case No. 72 of 2017. Learned counsel submitted that earlier since charge sheet had already been submitted, this was the only way to make amends.

10. Having considered the facts and circumstances of the case as well as the pleadings and materials on record, especially the stand taken in the affidavits of the Vigilance Department and the State, filed today, it is obvious that the pendency of Asarganj PS Case No. 72 of 2017 is itself unjustified and untenable. Thus, any further proceeding or even re-investigation in the matter would be a futile exercise and would be unnecessary wastage of time, both of the authorities as well as the Court and letting it continue would be an abuse of the process of the Court.

11. In view of the unimpeachable materials and admitted position on record regarding the certificates of the petitioner being genuine, the allegation in the FIR of Asarganj PS Case No. 72 of 2017 stands falsified and even the Vigilance having taken the stand that they have no objection to the prayer for quashing being allowed, the FIR itself being based on the



investigation and report of the Vigilance, the Court finds that the criminal case now requires to be closed.

12. For reasons aforesaid, the writ petition stands disposed off quashing the entire criminal prosecution arising out of Asarganj PS Case No. 72 of 2017, including any order which may have been passed by the Court below in connection with the said case, as far as it relates to the petitioner.

(Ahsanuddin Amanullah, J)

Anjani/-

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