

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10266 of 2017

Heera Lal Sah son of Sri Nageshwar Sah, Resident of Village- Bishunpur
Matiara, P.S.- Paharpur, District- East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, State of Bihar, Patna
2. The Principal Secretary, Education Department Bihar, Patna.
3. The Director, Primary Education, Education Department, Bihar, Patna.
4. The District Magistrate, West Champaran, Bettiah.
5. The District Education Officer, West Champaran, Bettiah.
6. The District Programme Officer Establishment, West Champaran, Bettiah.
7. The Block Education Officer, Bairiya, West Champaran, Bettiah.
8. The Mukhiya, Gram Panchayat Raj, Malahi Balua, Block- Bairiya, West Champaran, Bettiah.
9. The Panchayat Secretary, Gram Panchayat Raj, Malahi Balua, Block, Bairiya, West Champaran, Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nandlal Kumar Singh
For the Respondent/s : Mr.Smt.Shilpa Singh-Ga12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 21-02-2019

1. The present writ petition has been filed for quashing the order dated 12.06.2017 passed by the Panchayat Secretary, Malahi Balua, Bairiya, West Champaran, Bettiah.

2. The learned counsel for the petitioner has submitted that by an order dated 16.06.2014 passed by a co-ordinate Bench of this Court in CWJC no. 1220 of 2013, the order of termination of the petitioner herein dated 06.12.2012, passed by the District Programme Officer (Establishment), West Champaran was quashed on the ground that the District Teachers Employment Appellate Authority, West Champaran



had held that the degree of the petitioner was valid and it appears that thereafter, the petitioner was reinstated and the said punishment of reinstatement of the petitioner was recorded in the order ***dated 06.07.2017*** passed in Contempt case bearing ***M.J.C. no. 4081 of 2014***, which is reproduced hereinbelow :-

“Keeping in view the show cause filed by the respondents showing reinstatement of the petitioner and settlement of his dues, now no further action is required to be taken in the matter. In case, after reinstatement, again action has been taken, it gives a fresh cause to the petitioner to agitate the same, but the subsequent event of termination cannot be looked into in these proceedings of contempt. Once the respondents have reinstated and settled the claim of the petitioner till the date of his reinstatement, no action in this contempt application is called for. Petitioner shall have liberty to challenge the subsequent action in accordance with law.

With the aforesaid observation, the application stands disposed of.”

3. The learned counsel for the petitioner has submitted that the order dated 12.06.2017, whereby and whereunder the appointment of the petitioner has been cancelled, is not only contrary to the order ***dated 06.07.2017*** passed in the contempt proceedings bearing ***M.J.C. no. 4081 of 2014*** but also contrary to the order ***dated 16.06.2014*** passed in ***CWJC no. 1220 of 2013***, relevant portion whereof is



reproduced hereinbelow :-

“ From the order, it is apparent that this Court found that the District Programme Officer had no authority to cancel appointment of the petitioner on the ground that the institution was not recognized by N.C.T.E. in 1992. The order makes it apparent that the District Teacher Employment Appellate Authority, West Champaran had already held that the degree was valid. Secondly, the Court also noticed that N.C.T.E. itself came into existence pursuant to the Central Act in 1995. Hence, the recognition of the institution by N.C.T.E. in 1992 was apparently an absurd stand of the District Programme Officer.

Learned counsel for the respondents submits that he has no more submission to be advanced than what has been stated in the counter affidavit and noticed in the said order.

Learned counsel for the respondent nos. 8 and 9 is not present in Court to defend the said order of the District Programme Officer, West Champaran and the follow-up actions.

In the circumstances, this Court has no option but to allow this writ application. The Application, is accordingly, allowed. The order of the District Programme Officer (Establishment) West Champaran contained in Memo No. 6431 dated 06.12.2012 and all the follow up actions by respondent nos. 8 and 9 i.e. Mukhiya and the Panchayat Secretary, terminating services of petitioner are quashed. Respondents are directed to reinstate the petitioner forthwith.

Learned counsel for the petitioner submits that though there was stay of operation of the said order, petitioner



has not been paid his salary.

Respondents are, therefore, directed to allow the petitioner to perform his duty and to pay his arrears of salary within one month as well as pay his current salary regularly, subject to any further order of any competent authority.”

4. *Per contra*, the learned counsel for the respondents does not dispute the position as existing on facts as also in law.

5. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the impugned orders dated 14.12.2014 passed by the respondent no. 5 and the one dated 12.06.2017 passed by the Panchayat Secretary, Malahi Balua, Bairiya, West Champaran, Bettiah, being contrary to the earlier order of this Court ***dated 16.06.2014*** passed in ***C.W.J.C. no. 1220 of 2013*** are quashed and the respondent- authorities are directed to reinstate the petitioner forthwith and give all the consequential benefits.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.02.2019
Transmission Date	NA

