

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16019 of 2011

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SUNITA MISHRA Daughter of Sri Bodh Narayan Jha and Wife of Asha Nand Mishra Resident of Village and P.O. Jamsham, P.S. Pandaul, District-Madhubani.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Regional Deputy Director, Health Services, Darbhanga, Division Darbhanga.
3. The Civil Surgeon-cum-Chief Medical Officer, Darbhanga.
4. The In-charge Medical Officer, Primary Health Centre, Bahadurpur, Darbhanga.
5. Bihar School Examination Board, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ram Shankar Das
For the State	:	Mr.Yogendra Pd.Sinha AAG 7
For BSEB	:	Mr. Gyan Shankar

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

8 09-09-2019 Heard counsel for the petitioner and counsel for the respondents-State.

Limited issue for consideration in the instant proceedings is that the petitioner who was Auxiliary Nurse Midwife (ANM) was removed/ terminated against which she had earlier preferred CWJC no. 388/2009. This court on 21.06.2010 directed for reinstatement of the petitioner. Authorities in compliance of order passed by the writ court reinstated the petitioner as ANM and posted her on vacant post of ANM at Sadar Block Darbhanga. After her reinstatement, she has been visited with impugned order dated 11.08.2011 issued



by Civil Surgeon-cum-Chief Medical Officer, Darbhanga again terminating the services of the petitioner. This is based on a communication received from Joint Secretary of Bihar School Examination Board dated 05.08.2011 to the extent that the petitioner's result has been cancelled.

No opportunity was provided to the petitioner to meet said allegation. The order has been passed on the basis of alleged communication dated 05.08.2011, without serving copy of the same on the petitioner and without giving her an opportunity of explaining the circumstance or meeting the allegation raised in the alleged communication dated 05.08.2011.

Counsel for the petitioner submits that cancellation is without any basis as Deputy Secretary (Vigilance), Bihar School Examination Board on 21.06.2010 had earlier sent a written commutation to Civil Surgeon-cum-Chief Medical Officer, Darbhanga verifying/supporting petitioner's educational qualification issued by the Board.

Counsel for the respondents submits that once Board has communicated cancellation of the petitioner's matriculation certificate, petitioner has no legal basis to be continued in government employment.



The issue which has been raised by the State counsel to sustain the fairness was required to be examined after giving due opportunity to the petitioner in accordance with law. The same as taken note of hereinabove has not been done. No opportunity whatsoever has been granted to the petitioner and the confirm services of the petitioner have been terminated relying on alleged communication issued by Bihar School Examination Board. The orders having civil/penal consequences and without complying the principle of natural justice are not sustainable in the eye of law. The order dated 11.08.2011 is hereby quashed for the reasons indicated hereinabove.

Having regard to the issue arising on account of communication dated 05.08.2011 of Bihar School Examination Board, this court would observe that upon reinstatement petitioner should be served with a memo in relation to such charges and authorities should proceed against the petitioner and take the matter to its logical conclusion in accordance with law,expeditiously.

Writ petition stands allowed with the aforesaid observations and direction contained hereinabove.

s.hassan/-

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(Madhuresh Prasad, J)

