

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15847 of 2011

=====

MOHD.SAGIR KHAN S/O Late Yunus Khan Resident Of Mohalla/Village-
Dumra Kolhi, Police Station Dumra, District-Sitamarhi.

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. The Regional Deputy Director Of Education, Tirhut Division, Muzaffarpur.
3. The District Education Officer, Sitamarhi.
4. The District Superintendent Of Education, Sitamarhi.
5. The Collector, Sitamarhi, District-Sitamarhi.
6. The Director, Secondary Education, Bihar, Patna.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Verma
For the Respondent/s	:	Mr.Sunil Kr. Mandal SC 3
		Mr. Bipin Kumar, Mr. Arjun Prasad and
		Mr. Ranjan Kumar Singh, AC to SC 3

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 09-09-2019 The writ petition has been filed claiming relief of regularisation. The petitioner has discharged his duties as Jeep Driver in the Health Department for a considerable long period of time. On 15.5.2002 his serves were terminated. The termination was assailed by the petitioner in CWJC No. 7281 of 2002. The writ petition was considered and this Court had recorded that the petitioner's appointment was made without following any procedure, and even order of regularisation was not by the competent authority. In the circumstances, this Court did not interfere with the order of termination and allowed the respondents to take a decision in respect of petitioner's claim for



regularisation afresh in light of decision of the Apex Court in the case of Secretary, State of Karnataka Vs. Uma Devi, reported in (2006) 4 SCC 1.

The matter has thereafter been considered. Speaking order in this respect has been issued by the Director, Secondary Education, which has been communicated by Deputy Director on 13.4.2010 (Annexure 19). The authorities have considered the fact that the petitioner's engagement was not done by a duly constituted committee and without observing roster requirement. Having considered the aforesaid facts appointment/engagement of the petitioner on daily wage was found to be illegal and claim for regularisation has been rejected.

Mr. Verma, appearing for the petitioner, submits that the petitioner is entitled to consideration for his claim of regularisation as has been done in the case of Anil Kumar Verma Vs. State of Bihar in LPA No. 604 of 2010.

This Court would have directed for consideration in light of the said orders, but for the distinguishing fact that petitioner's initial engagement/appointment was not by a competent authority. In view of the initial engagement/appointment being illegal, benefits of regularisation



in terms of order passed in the case of Uma Devi (supra) or in the case of Anil Kumar Verma (supra) cannot be extended to the petitioner.

The specific case of the respondent authorities with respect to the petitioner's initial appointment/engagement being illegal, as per the counter affidavit, has also not been denied or disputed by the petitioner. It would be relevant to note here that copy of the said counter affidavit was served on the petitioner on 24.11.2014.

In view of the said circumstances, no legally enforceable claim is made out in the writ proceedings.

The writ petition is dismissed.

(Madhuresh Prasad, J)

SNkumar/-

U			
---	--	--	--

