

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12071 of 2018

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1. Braj Kishor Son of Satya Narayan Paswan, resident of Village- Sahpur, P.S.- Khodabandpur, Block- Chhourahi, District- Begusarai.
 2. W.B. Raman, Son of Late Dinesh Prasad Yadav, Resident of Village- Purpathar, P.S- Khopdabandpur, Block- Chhourahi, District- Begusarai.
 3. Alok Nath Choudhary, Son of Late Yadu Nandan Choudhary, resident of village- Narhan Estate, P.S. Narhar, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer Estt. Begusarai.
4. The District Programme Officer, Begusarai.
5. The Secretary Block Appointment Unit-cum-Block Development Officer Chhourahi Block District- Begusarai
6. The Block Education Officer, Chhourahi Block, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjit Kumar Yadav
For the Respondent/s : Mr.Subhash Chandra Mishra- Sc16

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 28-05-2019 The present writ petition has been filed for quashing the letter dated 26.4.2018 issued by the Director Primary Education, Government of Bihar, Patna whereby and whereunder it has been prescribed that since as per the regulations dated 23.8.2010, 29.7.2011 and 12.11.2014 of the NCTE, there is no provision for appointment of a candidate as a teacher in schools on compassionate ground by relaxing any condition of NCTE, those teachers, who have been appointed after 31.3.2015 on



compassionate ground and are not possessing the training certificate, their services should be terminated. The petitioners have further challenged the order dated 25.5.2018 whereby and whereunder the services of the petitioners have been terminated.

2. The learned counsel for the petitioners has made a simple argument to the effect that Clause 11 of the appointment letters dated 28.11.2017 (pertaining to petitioners no. 1 and 2) and the letter dated 13.4.2018 (pertaining to the petitioner no. 3) clearly mentions that the petitioners are required to pass the Teacher Training Exam / TET Exam within six years, failing which their appointment shall stand terminated. In such view of the matter, it is submitted that the direction of the Block Appointment Unit cum Block Development Officer, Chhairahi dated 25.5.2018 whereby and whereunder the services of the petitioners have been terminated, is contrary to the appointment letters of the petitioners herein, hence, is required to be set aside, being illegal and void. It is further submitted that prior to the issuance of the termination letter dated 25.5.2018, no show cause notice has been given to the petitioners herein so as to enable them to place their defence before the concerned authorities, hence, the same has resulted in violation of the principles of natural justice, as such, on this score as well, the termination order dated



25.5.2018 is fit to be set aside.

3. The learned counsel for the respondents has submitted, by referring to the counter affidavit, that the appointment of the petitioners has been made in contravention of the norms and directives of the Education Department, Bihar, Patna, as also the rules and regulations of the NCTE, hence, a decision has been taken to terminate the services of the petitioners. It is further submitted that the NCTE has granted relaxation to the untrained candidates for the purposes of acquiring the trained certificates / TET Certificate upto 31.3.2019, but the said date has also expired, hence, the petitioners do not have any case.

4. At this juncture, the learned counsel for the petitioners submits that the petitioners have already enrolled themselves in the teachers training programme with the National Institute of Open Schooling, New Delhi and the petitioners are likely to complete the training programme very soon.

5. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, as also considering Clause 11 of the appointment letters of the petitioners herein, this Court finds that the services of the petitioners could not have been terminated by the respondents, especially, without giving any opportunity to the petitioners to place their defence,



prior to passing of the impugned order dated 25.5.2018, hence,
the same is quashed.

6. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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