

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.935 of 2019

In
Civil Writ Jurisdiction Case No.4490 of 2017

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Rajeshwar Ray S/o Sri Harinandan Ray R/o Village- Rukmanjari, P.O.-
RusulpurKorigawan, P.S.-Goraul, District-Vaishali.

...Petitioner ... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, Patna
2. The Principal Secretary Education Department, Govt. of Bihar, Patna
3. The Director Secondary Education, Govt. of Bihar, Patna
4. The Presiding Officer District Teachers' Employment Appellate Authority,
Patna, Distt.- Patna
5. The District Education Officer Patna, Distt.- Patna
6. The District Programme Officer Establishment, Patna, Distt.- Patna
7. The Employment Unit, Patna Nagar Nigam Secondary Teacher through its
Secretary, Patna, District, Patna
8. The Secretary, Patna Nagar Nigam Secondary Teacher Employment Unit
cum Commissioner Patna Nagar Nigam, Distt.- Patna
9. The Mayor Patna Nagar Nigam , Distt.- Patna

...Respondents ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mrityunjay Kumar, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey (Aag15)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 23-02-2021

Heard the parties.

Aggrieved by the judgment and order dated 08.07.2019

passed in C.W.J.C. No.4490 of 2017 passed by learned Single

Judge of this Court, the appellant has preferred this appeal.



Appellant had filed writ petition for setting aside the order of termination dated 10.12.2016 as well as recovery of salary by instituting certificate case under Public Demand Recovery Act.

Pursuant to advertisement made for appointment of teachers in government high school, petitioner having requisite qualification being MA and B. Ed. applied and was duly selected and employment letter dated 12.1.2007 was issued by the Additional Commissioner, Patna Nagar Nigam, Patna and petitioner joined on 16.1.2007 and started discharging his duties.

District Education officer, Patna issued letter dated 14.5.2007 to the appellant to submit relevant documents with regard to recognition of institute from where appellant passed his B.Ed. course and appellant in his reply dated 25.5.2007 stated that recognition of the institute/college is subjudice before the Hon'ble Apex Court and interim order dated 26.3.2007 has been passed by the Apex Court. It has been further stated that SLP was dismissed by the Apex Court by order dated 10.2.2015 and review petition also stood dismissed on 16.4.2015.

B. Ed. degree from a recognized institute is a mandatory requirement for appointment as a teacher in government high school and since the institute from which,



appellant obtained B. Ed. degree was not a recognized institute, as such, appellant lacked basic eligibility to be appointed as a teacher in a government high school, as such, learned Single Judge has not interfered with the order of cancellation of appointment of appellant. However, learned Single Judge has set aside that part of the order by which, salary paid to the appellant has been directed to be recovered under Public Demand Recovery Act, as appellant performed his duty as a teacher against which, he is entitled for salary and issue of recognition of the institute was subjudice before the Apex Court. The operative part of the order passed by learned Single Judge is reproduced below:-

“Considering the statement made in para-26 of the writ application, the Court is inclined to accept bona fide of the petitioner and as such the writ petition is partly allowed. So far as that part of the order dismissing the service of the petitioner is concerned it is upheld. The part of Annexure-11 directing recovery under the Public Demand Recovery Act is concerned, the same is unsustainable as petitioner has received payment for performing the duty as teacher it is accordingly quashed.

The writ petition is partly allowed and disposed of to the extent indicated above.”



This Court does not find any error or infirmity in the order passed by learned Single Judge and, accordingly, this LPA is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
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