

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 401 of 2020

Shafi Ahmad, aged about 41 years(male) son of Md. Bhola Rain, resident of Village-Nari, P.O. Nazi Bhadawn, P.S. Ghanshyampur, at present headmaster, Primary School, Mishroliya Gaura Bauram, P.S. Ghanshyampur, District-Darbhanga.

..... Petitioner

Versus

1. The State of Bihar through District Magistrate, Darbhanga.
2. The District Education Officer, Darbhanga.
3. The District Programme Officer, Darbhanga.
4. The Block Education Officer, GauraBauram, Darbhanga, District-Darbhanga

..... Respondent 1st Set

5. Panchayat Sachiv, Gram Panchayat Raj Nari, P.O. Nari, P.S. Ghanshyampur, Block-Ghanshyampur, Block-GauraBauram District Darbhanga.
6. Mukhiya, Gram Panchayat Raj Nari, P.S. Ghanshyampur, Block GauraBauram, District-Darbhanga

..... Respondents 2nd set

Appearance

For the Petitioner/s : Mr. Md. Shahnawaz Ali, Adv.

For the Respondents : Smt. Binita Singh, SC 28

CORAM:HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Dated: 06.04.2021

Heard learned counsel for the petitioner and learned
counsel for the respondents



The petitioner has filed the instant application for quashing the order contained in letter no.1008 dated 11.6.2019 issued under the signature of the District Education Officer, Darbhanga whereby direction was given to the District Programme Officer, Darbhanga to suspend the petitioner and to institute an F.I.R. against him. By an interlocutory application being I.A.No.1 of 2020 which was allowed by order dated 5.3.2021 the petitioner has further prayed for quashing the order contained in letter no.0113 dated 27.11.2019 issued under the signature of the Panchayat Secretary, Gram Panchayat Nari whereby the petitioner was placed under suspension as also for quashing the order contained in letter no. 2362 dated 7.12.2019 issued under the signature of the District Education Officer, Darbhanga whereby it was ordered to institute a certificate case against the petitioner for recovery of the Government money defalcated by him.

The case of the petitioner in brief is that while the petitioner was working as Incharge Headmaster, Primary School, Mishroliya, an application was filed by a stranger before the 'Janshikayat Koshang' alleging misappropriation of fund of the school by the petitioner. The allegations were verified by the



Block Education Officer and was prima facie found to be true to the effect that the petitioner had defalcated a sum of Rs. 7.5 lacs meant for uniform and scholarship of the students. It was stated that the said amount had been used for construction of building in the premises of the school.

It is the case of the petitioner that no show cause notice was given to him and he was placed under suspension with the further direction to institute an F.I.R. against him. The mandatory provisions of the CCA Rules were not followed and there was violation of the principles of natural justice. During pendency of the writ application, by order dated 27.11.2019 the petitioner was placed under suspension and further by order dated 7.12.2019, a further direction was issued to institute a certificate case against him for recovery of the defalcated amount. The said two orders were challenged by the above mentioned interlocutory application. The main contention of the petitioner is that the mandatory provisions of the CCA Rules not having been followed by the respondent authorities, the orders impugned could not be sustained and in any case of the matter the order of suspension be vacated.



A counter affidavit was filed on behalf of the respondent no.2 and a separate counter affidavit on behalf of the respondent no.5 i.e the Panchayat Secretary. It was contended by learned counsel appearing for the respondents that the petitioner was appointed in the year 2003 as Panchayat Shiksha Mitra under the prevalent Scheme and subsequently, he was absorbed as a Panchayat teacher under the Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules, 2012. It was contended that Panchayat teachers not being government servants, the provisions of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 will not be applicable in case of the petitioner and instead the provisions of the Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules, 2012 would be applicable. The Rules of 2012 contains a provision for disciplinary action against the Panchayat teachers.

Having heard learned counsel for the parties and taking into consideration the submissions made, this Court is of the opinion that although it is true that the Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules,



2012 would be applicable in case of Panchayat teachers like the petitioner herein, however, the fact to be kept in mind is that the petitioner was placed under suspension on 27.11.2019 itself in contemplation of a departmental proceeding. It is also a fact that more than one year and four months having passed, the departmental proceeding has still not concluded and the petitioner continues to remain under suspension.

So far as quashing of the order contained in letter dated 11.6.2019 is concerned, the direction contained therein was to take steps to suspend the petitioner in contemplation of a departmental proceeding and to register an F.I.R. against him. Both the steps having been taken, nothing remains for the Court to decide so far as the said order is concerned.

With respect to the order contained in letter dated 7.12.2019 directing the authorities to institute a certificate case against the petitioner is concerned, the Court finds no illegality in the same and the prayer of the petitioner is dismissed.

With respect to the prayer of the petitioner for quashing the order contained in letter dated 27.11.2019 placing the petitioner under suspension is concerned, although the Court does not find



any illegality in the said order, in the facts and circumstances of the case, the Court deems it proper and expedient to direct the respondent authorities to conclude the departmental proceeding against the petitioner within a period of 6 months from the date of receipt of a copy of this order.

The writ application stands disposed of.

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	09.04.2021
Transmission Date	

