

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9919 of 2019

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Gayatri Kumari, female, aged about 36 years, Wife of Sri Neeraj Kumar Mandal, Daughter of Udaylal Prasad, Resident of Village- Keshopur Nakkinagar, P.O. and P.S.- Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate-cum-Collector, Munger, District- Munger.
5. The District Education Officer, Munger, District- Munger.
6. The District Programme Officer, Establishment (Education), Munger, District- Munger.
7. The Block Development Officer-cum-Secretary, Block- Teacher Employment Unit, Tarapur, Block- Tarapur, District- Munger.
8. The Block Education Officer, Tarapur, District- Munger.
9. The Bihar School Examination Board, through its Secretary, Patna.
10. The Chairman, Bihar School Examination Board, Patna.
11. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 11796 of 2019

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Shambhu Saw, male, aged about 46 years, Son of Raghunandan Saw, Resident of Village- Khawa, P.O.- Kiranpur, P.S.- Medni Chowk, District- Lakhisarai.



... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate-cum-Collector, Munger, District- Munger.
5. The District Education Officer, Munger, District- Munger.
6. The District Programme Officer, Establishment (Education), Munger, District- Munger.
7. The Block Development Officer-cum-Secretary, Block Teacher Employment Unit, Tarapur, Block- Tarapur, District- Munger.
8. The Block Education Officer, Tarapur, District- Munger.
9. The Bihar School Examination Board, Patna through its Secretary.
10. The Chairman, the Bihar School Examination Board, Patna.
11. The Secretary, the Bihar School Examination Board, Patna.

... .. Respondent/s

Appearance :

(In both the cases)

For the Petitioner/s	:	Mr. Mrityunjay Kumar, Adv.
For the Respondent/s	:	Mr. Girijish Kumar, Adv.
		Mr. Gyan Shankar, Adv.
		Mr. Priyadarshi Maitri Sharan, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 28-01-2022

Heard the counsel for the parties.

2. The petitioners seek a direction to the



respondents to consider their certificates of Bihar Elementary Teacher Eligibility Test (*in short the BETET*) as valid and genuine as the same has been issued by the Bihar School Examination Board (*in short the BSEB*) after they had passed the examination in the year 2011 and for a further direction to resume the payment of salaries to them as also the payment of arrears of salaries, which has accrued up-till now.

3. It appears from the records that the petitioners had appeared in the BETET, 2011 and had passed successfully. After the Bihar Panchayat Elementary Teacher (Employment and Service Condition) Rules, 2012 came into operation, posts of Block and Panchayat Teachers were advertised. Since the petitioners have requisite qualifications, they applied against the said posts and were appointed. After the verification of all the documents and certificates, they were made to join.

4. It further appears that in a public interest litigation (*C.W.J.c. No. 15459 of 2014; Ranjeet Pandit & Anr. Vs. The State of Bihar and Ors.*), a direction issued by a



Bench of this Court to the Vigilance to investigate into the forged and fabricated BETET certificates of the teachers and taking appropriate action in accordance with law.

5. The petitioners came to learn about the said F.I.R. and apprehending arrest, they preferred an application for grant of anticipatory bail, which was allowed by the learned Court below.

6. The allegations in the F.I.R. are absolutely general and omnibus and no specific instance could be given for holding the certificates of the petitioners to be forged and fabricated. The petitioners had been continuously working on the respective posts since their date of joining and were paid their salaries till October, 2018.

7. During the course of investigation, it came to light that the enquiry was being conducted against the petitioners on the premise that they had passed one part of the BETET examination, whereas they had not passed in the other part.

8. It has been brought to the notice of this Court that in the scheme of the examination of BETET, there is no



requirement of passing both the papers. The candidates desirous of obtaining appointment of teachers for particular classes could either pass in Part-I or Part-II or both the Parts of the examination.

9. In one of the matters, namely, in the case of Chandani Kumari Vs. The State of Bihar and Ors. (*C.W.J.C. No. 9786 of 2019*), this Court had asked the Vigilance counsel to inquire into the matter. This Court was taken through the entire investigation papers and it was discerned that the investigator had only mechanically signed on the documents furnished before him. Even, the records in the database of BSEB do not indicate that the certificates of BETET of the petitioners are forged and fabricated. The only reason is that they have passed in one part of the examination but not in the other. For candidates to be appointed as teachers for Class-VI to VIII, there is a requirement of passing in Paper-I only, whereas for appointment for Classes-I to V, the candidate must passed in Paper-II of the examination. Those candidates who passed in both the papers would have the eligibility to apply for the



post of teachers for all the classes. This, therefore, necessarily implies that the petitioners were eligible to be appointed as teachers for the respective classes.

10. This Court was also apprised of the complaint made by some of the candidates before the Director General of Police with respect to such faulty investigation, on which, an enquiry had been set-up and before such enquiry, the two erring police officials admitted of having signed such reports mechanically without verifying the correctness of the allegation or the defense of such teachers.

11. The counsel for the Vigilance, in the aforesaid case, had apprised this Court that the conduct of the Vigilance Officer was found to be absolutely unpardonable and, therefore, he was subjected to a departmental proceeding and had also been given a punishment of one black mark.

12. The BSEB in its report had also admitted that in their database, the petitioner, in that case, was shown to have passed in one of the papers of the



examination.

13. In the case of these petitioners, no notice appears to have been issued to them to explain the circumstances.

14. In the case of Chandani Kumari (*supra*), this Court had set-aside the order of termination of her services and a decision was required to be taken by the Director, Primary Education, Department of Education, Govt. of Bihar, Patna with respect to the termination of the services of the petitioner and consequent resumption of her salary.

15. As noted above, the petitioners in the present cases have not been noticed for termination of their services pending investigation of the Vigilance case. Their salary but has been stopped.

16. Under the aforesaid circumstances, this Court directs that if the petitioners make a representation before the Director, Primary Education, Department of Education, Govt. of Bihar, Patna (respondent No. 3) along with a copy of this order within a period of four weeks, the concerned respondent shall look into the same and shall pass



necessary orders accordingly, resuming the salaries of the petitioners which has been stopped only on the ground of pendency of the investigative process or any other order/orders which would be a necessary sequel and deemed necessary in these cases. The aforesaid decision of the concerned respondent shall but be subject to the final outcome of the investigation of the case.

17. In case, the petitioners are found to be guilty, necessary consequences shall follow.

18. This Court reiterates that the police is under an obligation to conclude the investigation at the earliest.

19. With the aforesaid observation/direction, the writ petitions stand disposed off.

20. Interlocutory application, if any, also stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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