

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9786 of 2019

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Chandani Kumari, female, aged about 33 years, Daughter of Sri Shambhu Jha, Resident of Village- Jhakhara, P.O.- Kadarchak, P.S.- Shambhuganj, District- Banka.

... .. 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.
12. The Vigilance Department through the Additional Chief Secretary, Department of Vigilance, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prince Kumar Mishra, Adv.
For the State	:	Mr. Ran Vijay Prasad Singh, AC to GA-XII
For the Vigilance	:	Mr. Anjani Kumar, Sr. Adv.
		Ms. Archana Palkar Khopde, Adv.
		Mr. Arvind Kumar, Adv.



For the BSEB : Mr. Girijesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 03-01-2022

Heard Mr. Prince Kumar Mishra, the learned Advocate for the petitioner and Mr. Ran Vijay Prasad Singh, the learned AC to GA-XII for the State. The Vigilance Department is represented by Mr. Anjani Kumar, the learned Senior Advocate assisted by Ms. Archana Palkar Khopde and Mr. Arvind Kumar, the learned Advocates. Mr. Girijesh Kumar, the learned Advocate has appeared on behalf of the Bihar School Examination Board.

2. The petitioner has approached this Court for a direction to the respondents to consider her certificate of Teacher Eligibility Test (*in short the TET*) as valid and genuine as the same has been issued by the Bihar School Examination Board, Patna (*in short the BSEB*) after the petitioner had passed the TET Examination, 2011 successfully and further for a direction to the respondents to pay the arrears of the salary since November, 2018 - till date as the same is not being paid to her on the pretext of



an investigation pending against her.

3. The charge against the petitioner is of having obtained employment on the basis of forged and fabricated TET certificate.

4. The background to this litigation is that in one of the Public Interest Litigation (PIL) cases, it was found that undeserving persons with forged degrees had obtained employment. Under the orders of this Court, an enquiry was instituted with the mandate to find out and identify such teachers who had used the forged academic qualification degrees for obtaining such appointment. Consequently, an F.I.R. was lodged in which the petitioner has also been arraigned as one of the accused person.

5. So far as the charge against the petitioner is concerned, it is limited to the extent that she is said to have passed in Paper-II of the TET examination, even when she was shown to have failed in Paper-I.

6. It has been argued on behalf of the petitioner that because of her having failed in Paper-I, it was presumed that her passing in Paper-II was anomalous and it



hinted at the certificate being forged; for the reason that anybody who has failed in the first paper would not be permitted to appear in the second paper or even if he/she is permitted to appear in the second paper, the result would not be published unless both the papers are cleared.

7. In order to dispel this confusion, the counsel for the petitioner has drawn the attention of this Court to the entire scheme of the TET examination, which, *inter alia*, provides that for persons desirous of being appointed as teachers for Class – VI to VIII, they are required to pass in Paper-I only, whereas aspirants for being appointed as teachers in Class – I to V would be required to pass in Paper-II. Any candidate passing in Paper-I and Paper-II, both, would have the eligibility to apply for teachers for all the classes. This necessarily implies that if the petitioner has passed in Paper-II, she is eligible to be appointed as teachers for Class – VI to VIII.

8. During the course of the enquiry conducted by the local police, even when the F.I.R. was lodged by the Vigilance, no definite material could be collected against the



petitioner to indicate or substantiate the charge of the petitioners having obtained employment on a forged degree. However, while going through the investigation reports, it came to light that two of the officers, one from the Vigilance Department and the other from the General Police Department, were reckless in making investigations and had signed the reports in a mechanical manner, without even verifying the scheme of the examination of the TET.

9. On a complaint made by the petitioner and others before the Director General of Police with respect to such faulty investigation, an enquiry was set-up and before such enquiry committee, the aforesaid two erring police officials admitted of having signed such reports mechanically without verifying the correctness of the allegation or of the defense of the petitioner.

10. At that stage, the Court found it expedient to issue notice the Vigilance Department to inform the Court about the action taken against such irresponsible investigators for their incompetence and mindlessness had caused immense damage to the petitioner and her likes.



11. Mr. Anjani Kumar, the learned Senior Advocate representing the Vigilance Department has intimated this Court by way of counter affidavit that the conduct of the Vigilance Officer was found to be absolutely unpardonable and therefore he was subjected to a departmental proceeding and has also been given a punishment of one black mark.

12. The fact of the matter now is that the petitioner has passed in Paper-II examination of the TET.

13. The BSEB in its report has also admitted that in their data-base, the petitioner is shown to have passed in Paper-II examination, thereby making her eligible for being appointed as a teacher. The petitioner after her appointment had been serving in the school where she was posted.

14. The present litigation has come up only on the stoppage of the salary of the petitioner since November, 2018 – till date on the pretext of the investigation against her being pending.

15. In this fact scenario, therefore, this Court



deems it appropriate to direct that in case a representation is filed by the petitioner before the Director, Primary Education, Department of Education, Govt. of Bihar, Patna along with a copy of this order within a period of three weeks, the concerned respondent shall look into the matter and shall pass necessary orders accordingly, resuming the salary of the petitioner which has been stopped since November, 2018 only on the ground of pendency of the investigating process. The aforesaid decision of the concerned respondent shall but be subject to the final outcome of the investigation of the case. In case, the petitioner is found to be guilty, necessary consequences would follow. The police is also directed to conclude the investigation at the earliest.

With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	AFR
CAV DATE	N/A
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