

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2617 of 2018

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Prem Kumar Jha son of Pitambar Jha resident of village - Bangaon, P.S. - Bangaon, District - Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. The Director Secondary Education, Govt. of Bihar, Patna.
3. The District Magistrate, Katihar.
4. The District Education Officer, Katihar.
5. The District Programme Officer Establishment, Katihar.
6. The Municipal Commissioner, Katihar Municipal Corporation, Katihar.
7. The Chief Executive Officer, Katihar Municipal Corporation, Katihar.
8. The B.N. Mandal University, Lalu Nagar, Madhepura, through its Registrar.
9. The Vice Chancellor B.N. Mandal University, Lalu Nagar, Madhepura.
10. The Controller of Examination, B.N. Mandal University, Lalu Nagar, Madhepura.
11. The Principal, R.A. College, Kujoui, Block - Azam Nagar, District - Madhepura.
12. The Director General of Police, Vigilance Investigation Bureau, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar, Adv.
For the State	:	Mr. Ram Vinay Pd. Singh, AC to GA12
For the University	:	Mr. Ritesh Kumar, Adv.
For the Respondent No. 6&7	:	Mr. Vinay Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

7 17-10-2022 1. The petitioner by way of this writ petition has challenged the order passed by the District Appellate Authority as well as the State Appellate Authority, whereby the order of termination of service dated 24.09.2017 was upheld. The petitioner submits that he was appointed as a teacher in Hindi in trained category on 24.10.2007 and he had fallen ill and proceeded on medical leave on 21.11.2015.

2. Meanwhile, in light of the order passed by this court, Vigilance Department lodged an F.I.R. against the petitioner alleging that the B.Ed. certificate submitted by him



issued from B.N. Mandal University, Madhepura was forged. He was granted anticipatory bail and the criminal case is continuing. After being released from bail, the petitioner was not allowed to join in his post and thereafter solely on the basis of the criminal case alleging that documents to be forged the petitioner's services were dispensed with without conducting any further enquiry.

3. Learned counsel for the petitioner submits that both the District Appellate Authority as well as the State Appellate Authority failed to take into consideration that the petitioner had passed the B.Ed. qualification as he obtained a document under Right to Information which reflected that the petitioner had passed the B.Ed. Examination 1996 held in the month of February 1997.

4. Learned counsel has taken the court to the Tabulation Register of the B.N. Mandal University obtained under the Right to Information. As per the document there are two Tabulation Registers of the University relating to the Arya College of Education and the petitioner has been shown to have passed in one Tabulation Register while in the other Tabulation Register he has been shown to have failed.

5. It is submitted that the different stand taken by the



University ought to go in favor of the petitioner that he had passed the examination. In one of the Tabulation Registers, the petitioner has been shown to have obtained 23 marks in Paper 2, while in the second Tabulation Register he has been shown to have obtained 36+8 marks. The petitioner's counsel, therefore, submits that he should be treated to have passed the B.Ed. examination. It is his submission that both the authorities below have failed to take notice of the said aspect and proceeded to deny the petitioner benefit solely on the ground that the vigilance case has been registered against the petitioner.

6. Notices were issued in this case and the University has also filed its counter. In its counter, the University has admitted that the petitioner appeared in B.Ed. Examination 1996 and in the Tabulation Register. It is apparent that he secured only 23 marks in B.Ed. Paper 2 while the pass marks for the same is 36. On the total calculation of marks, his marks come to 182 and he is shown to be fail in Paper 2. In the second Tabulation Register, an interpolation has been done and in Paper 2 above 23 marks 36+8 have been mentioned but the total marks of 182 remains the same in the second Tabulation Register also. Thus it is a case of interpolation and result of the second Tabulation Register cannot be relied upon. It is submitted that



the petitioner has been benefited by the said interpolation and the mark-sheet was produced for appointment stating that he has passed the B.Ed. Examination which is a forged mark-sheet.

7. Affidavit of the University being on record, the matter becomes fate accomplice. Nothing further is required to be examined by this court with regard to the question of the petitioner having passed or failed in the examination. It is the University which has to ultimately put up its stand and has stated that the petitioner is to be treated to have failed.

8. Having noticed the stand of the University that the petitioner has not passed B.Ed. Examination 1996, the action of the respondents state in terminating the services of the petitioner on the basis of forged marks is found to be correct and no interference is warranted in the orders passed by both the authorities below.

9. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 65

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