

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1594 of 2018

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Shruti Daughter of Amar Nath Singh Resident of Village- Chakwago, P.S.-
Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through Secretary, Department of Primary and adult Education, Patna, Bihar.
2. The Director, Department of Primary and adult Education, Patna, Bihar.
3. The District Program Officer, Establishment, Education Department, Muzaffarpur.
4. The Block Education Officer, P.S. and Block- Saraiya, District Muzaffarpur.
5. The Block Development Officer, P.S. and Block- Saraiya, District- Muzaffarpur.
6. The Panchayat Sachiv , Gram Panchayat Raj Basaitha, P.S. Saraiya, District Muzaffarpur.
7. The Learned Presiding Officer of District Appellate Authority, Muzaffarpur.
8. Sadhu Sahani Son of Parmanand Sahani Resident of Village- Chakbajo, P.S. Block- Saraiya, District Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Yugal Kishore, Adv. With Ms. Rupa Kumari, Adv.
For the State	:	Mr. Jai Prabhat Kishore, AC to SC-13

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

5 19-07-2022

1. Heard the parties.

2. the petitioner assails the order dated 08.06.2012
passed by the District Appellate Authority which has been
confirmed by the State Appellate Authority.

3. Learned counsel submits that while the petitioner
could not have been appointed as a Panchayat Teacher as he was
never appointed as a Shiksha Mitra up to 01.07.2006, at the



same time, the respondent also has been wrongly taken over as a Panchayat Teacher.

4. Learned counsel submits that the qualification required by the respondent no. 8 namely Sadhu Sahani i.e. of Madhyama (Visharad) from Hindi Sahitya Samellan, Prayag, Allahabad is not recognized and the same could not have been made an affiliation for appointment as Shiksha Mitra and subsequent absorption as a Panchayat Teacher was illegal.

5. A look at the order dated 21.11.2017, passed by the State Appellate Authority with regard to respondent no. 11 namely Sadhu Sahani is as under:-

“The respondent no. 11, Sadhu Sahni was employed as Panchayat Shiksha Mitra on the basis of Madhyama (Visharad) degree granted by Hindi Sahitya Sammelan, Prayag, Allahabad, but at the same time he also had Intermediate certificate granted by Bihar State Intermediate Education Council. At the time when respondent no. 11 was employed as Panchayat Shiksha Mitra, there was no guidelines regarding validity or otherwise of Madhyama (Visharad) degree granted by Hindi Sahitya Sammelan, Prayag, Allahabad. He continued as Panchayat Shiksha Mitra till the Employment Rules, 2006 were notified and in the light of Rule 20 (iii) of the Employment Rules, 2006, he was deemed to be employed as Panchayat



Shiksha Mitra with effect from 01.07.2006 and he continued to work as Panchayat Teacher. Under rule 20 (i) of the Employment Rules, 2006 with effect from 01.07.2006, all rules, resolutions, orders, instructions etc. related to employment of Panchayat Shiksha Mitra were deemed to be abolished. Therefore, after 01.07.2006, there were no rules to regulate and govern the employment and other service conditions of Panchayat Shiksha Mitra. Further, under Rule 20 (iii) of the Employment Rules, 2006 of Panchayat Shiksha Mitra including the appellant were deemed to be employed as Panchayat teacher. Therefore, the validity of the employment of respondent no. 11 as Panchayat Shiksha Mitra could not be inquired into and employment of respondent no. 11 as Panchayat Shiksha Mitra could not be retrospective.”

6. In the opinion of this Court, the position of law is very settled, services can not be terminated with retrospective effect. The State Appellate Authority has rightly reached to the conclusion. Accordingly, the case of the petitioner of seeking removal of respondent no. 8 namely Sadhu Sahani from the post of Panchayat Teacher is not made out.

7. It is a well settled law that there can be no retrospective termination. The Hon'ble Apex Court in the case



reported in **(1989) 3 SCC 448 (Pyare Lal Sharma Vrs. J & K Industries Ltd.)** held that vested rights cannot be taken away retrospectively.

8. The writ petition is mis-conceived and accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 12

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