

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.158 of 2021

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Kunti Kumari, Wife of Ashok Kumar, Resident of Village-Kashopur, Police Station-Paliganj, District-Patna.

... .. 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, Bihar, Patna.
4. The District Magistrate, Patna.
5. The Superintendent of Education, Patna.
6. The Block Development Officer, Paliganj, Patna.
7. The Block Education Officer, Paliganj, Patna.
8. The Mukhiya Ajada Sikariya Gram Panchayat, Paliganj, District Patna.
9. The Panchayat Secretary Ajada Sikariya Gram Panchayat Paliganj Block District Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.
For the Respondent/s : Mr. Kameshwar Kumar (GP 17)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 10-03-2022 Heard the parties.

The case is being taken up from defect side.

Learned counsel for the petitioner is directed to submit the original petition alongwith attested affidavits and also remove all the defects pointed out by the Registry within two weeks from today.



Learned counsel for the petitioner submits that the petitioner was appointed as Shiksha Mitra, 2005 and services were dispensed with in the year 2008, which again the dispensing of the services. He has filed a writ petition before this Court, wherein a direction has been issued that the petition which was withdrawn by the petitioner with liberty to file appeal before the State Appellate Authority. The State Appellate Authority has rejected the prayer of the petitioner and the present petition has been filed. He submits that the State Appellate Authority has rejected his appeal solely on the ground that he has come after much delay.

I have considered the submission, it would interesting to note that the order passed by the State Appellate Authority is as under:-

“On a consideration of submission made at the Bar and after going through the relevant pleadings the Court finds that the appellant has not pleaded supported by any document with regard to her re-engagement as PSM. Indisputably she was not permitted to work by the respondents. A cause of action had arisen to her. A writ petition bearing CWJC No. 3933 of



2011 was filed by her in which no relief with regard to her continuance as Panchayat Teacher was granted. The appellant was satisfied with the said order. The said order passed by the writ Court was never challenged. Nearly two years thereafter she again filed writ petition. The order passed on her writ petition was never challenged by her.

The discussions made above incline the Court not to admit the appeal.

The appeal is dismissed.”

From the facts which have been noted hereinabove by the State Appellate Authority, it is apparent that the petitioner has earlier also filed a writ petition in C.W.J.C. No. 3933/2011. Upon asking the counsel, he has handed over a copy of the order passed by the High Court in its earlier proceeding taken up by the petitioner dated 13.02.2014.

From perusal of the order, it is apparent that the petitioner did not challenge her termination and only claimed payment of salary for the period upto which she worked i.e. 30.09.2009. She also admit before the Court that there were other seven persons who had also been removed alongwith the



petitioner. In the circumstances, the Court passed an order directing the respondent no. 5 wherein the District Superintendent of Education, Patna to release the salary of the petitioner upto 30.09.2009 there was no direction to reinstate the petitioner. Thus after 2014 she was satisfied. However, it appear that with a view to obtained something more than which was not prayed earlier, a fresh petition was filed and was cryptically withdrawn mentioning that the petitioner wants to approach the State Appellate Authority. Having taken a wrongful benefit she approached the State Appellate Authority. However, The State Appellate Authority considered all the aspects and found that the appellant / petitioner was never granted reinstatement in the earlier writ proceeding taken up by her. She never challenged the order further in LPA etc. After two years she again filed a fresh writ petition. Such course could not have been taken up by the petitioner and is gross abuse of process of Court. Even in the present petition the petitioner has cleverly not placed on record the earlier judgment passed by this Court dated 13.02.2014. The petitioner does not deserve any equity or any relief. The writ petition is wholly frivolous is dismissed with cost of Rs.10,000/ (Ten thousand) to be deposited with the Bihar State Legal Services Authority within a period of one month



from today, failing which the same shall be recovered from the
petitioner and their AOR.

(Sanjeev Prakash Sharma, J)

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