

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4775 of 2018

Afsana Khatoon

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resource Development Department, Bihar, Vikash Bhawan, Patna.
2. The District Officer, Bhojpur (Ara).
3. The District Education Officer, Barhara, Bhojpur (Ara).
4. The District Superintendent of Education, Bhojpur.
5. The Block Development Officer, Barhara, Bhojpur.
6. The Mukhiya, Gram Panchayat Raj-Saraiya, Bhojpur.
7. The Panchayat Secretary, Gram Panchayat Raj-Saraiya, Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar, Adv.
For the Respondent/s : Mr.Ashutosh Ranjan Pandey -Aag15

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 25-07-2022 Heard the parties.

The petitioner was a Shiksha Mitra upon verification of her documents. It was found that her intermediate certificate was forged and, therefore, her services have been dispensed with vide order dated 1st July, 2008. The contention of the petitioner is that the order of termination could not have been passed without show cause notice. It is stated that she passed her intermediate examination 2007 in First Division and did not conceal any documents. The respondents have not filed any reply although the writ petition is pending since 2018. Taking into consideration, the contents of the writ petition, this Court is

satisfied that the principles of natural justice have not been followed. List expected from the authorities is to adhere to the principle of audi alterem partem. Before terminating services of the employee removing a person from that post without giving an opportunity of hearing infringes her right under Article 21 of the Constitution of India, person cannot be punished unheard.

In view thereof, the order dated 26.06.2008, impugned, is set aside with liberty to the respondents to proceed after giving opportunity to the petitioner to defend herself. The respondents would be free to do the needful and if required proceed under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 applicable on the petitioner.

The writ petition is allowed with all consequential benefits of continuity of service. However, the petitioner would not be paid actual salary for the intervening period but would be entitled to notional fixation alone.

This writ petition is accordingly allowed.

(Sanjeev Prakash Sharma, J)

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Item No. 352

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