

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14486 of 2022

-
1. Archana Kumari D/o Raj Kumar Prasad, Wife of Ranjit Kumar, Resident of Village-Kolhubar, P.O.-Pipara, P.S.-Dumaria, District-Gaya.
 2. Anita Kumari D/o Ajit Kumar, Wife of Nagendra Prasad, resident of Village and P.O.-Shri Rampur, P.S. Sherghati, District-Gaya.
 3. Arpana Kumari, D/o Rajendra Singh, resident of Village-Juri Nawadih, P.O. and P.S.-Bankey Bazar, District-Gaya.
 4. Archana Kumari, Wife Kaushlendra Kumar, resident of Village-Juri Nawadih, P.O. and P.S.-Bankey Bazar, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Director (Primary) Education Department, Bihar, Patna.
3. The District Magistrate, Gaya.
4. The District Education Officer, Gaya.
5. The District Programme Officer (Establishment), Gaya.
6. The Block Development Officer-cum-Secretary Block Teacher Niyojan Samiti, Imamganj, District-Gaya.
7. The Block Education Officer, Imamganj, District-Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar Singh, Adv.
For the State : Mr. Narendra Kumar (AC to GP 20)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 2 09-11-2022 1. The petitioner by way of this writ petition submits that he was appointed as a teacher on 14.4.2015 in the Middle School Tanakwar and was continuing to teach. However on account of directions issued by this Court enquiry was conducted with regard to the educational qualifications and the petitioner's salary was stopped from May 2018 and an F.I.R.



was registered with regard to the certificates submitted by relating to the BETET certificate.

2. Learned counsel states that petitioner services were terminated without giving opportunity of hearing on the basis of the vigilance report vide order dated 19.12.2020 and after he was granted anticipatory bail he requested the headmaster to allow him to join, but has not been allowed to join.

3. Learned counsel submits that in the criminal case investigation is still continuing and on the self made charges the petitioner could not have been terminated from service.

4. I have considered the submission as regards the learned counsel's submissions with regard to relating to departmental enquiry being continued during the criminal case. The law has been settled by Supreme Court in **M. Paul Anthony Vs Bharat Gold Mines Ltd. & another** as reported in (1993) 3 SCC 679 and subsequent judgments in **Hindustan Petroleum Corporation Ltd. And Others Vs Sarvesh Berry** as reported in (2005) 10 SCC 471 and **Stanzen Toyotetsu India Private Limited Vs Girish V. and others** as reported in (2014) 3 SCC 636.

5. As regards the allegation of the petitioners services being terminated without giving the opportunity of hearing, it is



settled law that if any vested right is to be taken away, opportunity of hearing is required to be given. However, in a case where appointment is obtained by fraudulent means no right can be said to have accrued to any individual and therefore the principles of natural justice will take no play in such cases of fraudulent appointment. The contention is therefore rejected.

The petitioner also claims salary for the period during which he has worked. In the opinion of this Court, if the petitioner has obtained employment by fraudulent means there is no question of paying him arrears of salary on the other hand the State authorities can always take action for recovering the salary which has already been paid to him keeping in view that he has obtained appointment by way of fraud.

6. The writ petition is devoid of merit and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

shaswat/-
Item no. 31

U			
---	--	--	--

