

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18897 of 2019

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Rakhi Kumari, female, aged about 38 years, W/o Lalbabu, D/o Ramashankar
Yadav, R/o Vill.- Bharatsheela, P.s.- Shambhuganj, Distt.- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, Patna.
2. The Principal Secretary Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Education Department, Govt. of Bihar,
Patna.
4. The Bihar School Examination Board, Patna, through its Secretary.
5. The Chairman, the Bihar School Examination Board, Patna.
6. The Secretary, the Bihar School Examination Board, Patna.
7. The District Magistrate-cum-Collector Munger, Distt.- Munger.
8. The District Education Officer, Munger, District- Munger.
9. The District Programme Officer, Establishment (Education), Munger,
District- Munger.
10. The Block Development Officer-cum-Secretary, Block- Teacher
Employment Unit, Tarapur, Block- Tarapur, Distt.- Munger.
11. The Block Education Officer, Tarapur, Distt.- Munger.
12. The Panchayat Sevak-cum-Secretary, Panchayat Teacher Employment Unit,
Gram Panchayat Raj Padhbhara, Block- Tarapur, District- Munger.
13. The Mukhiya-cum-Chairman, Panchayat Teacher Employment Unit, Gram
Panchayat Raj Padhbhara, Block- Tarapur, District- Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Adv.
For the Respondent/s : Mr. Prabhakar Jha, GP-27
Mr. Gyan Shankar, Adv.
Mr. Ajay, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 28-01-2022

Heard the counsel for the parties.

2. The petitioner seeks a direction to the respondents to consider her certificate of Bihar Elementary Teacher Eligibility Test (*in short the BETET*) as valid and genuine as the same has been issued by the Bihar School Examination Board (*in short the BSEB*) after she had passed the examination in the year 2011 and for a further direction to resume the payment of salary to her as also the payment of arrears of salary, which has accrued up-till now.

3. It appears from the records that the petitioner had appeared in the BETET, 2011 and had passed successfully. After the Bihar Panchayat Elementary Teacher (Employment and Service Condition) Rules, 2012 came into operation, posts of Block and Panchayat Teachers were advertised. Since the petitioner had requisite qualification, she applied against the said post and was appointed. After the verification of all the



documents and certificates, she was made to join.

4. It further appears that in a public interest litigation (*C.W.J.C. No. 15459 of 2014; Ranjeet Pandit & Anr. Vs. The State of Bihar and Ors.*), a direction was issued by a Bench of this Court to the Vigilance to investigate into the forged and fabricated BETET certificates of the teachers and for taking appropriate action in accordance with law.

5. The petitioner came to learn about the said F.I.R. and apprehending her arrest, she preferred an application for grant of anticipatory bail, which was allowed by the learned Court below.

6. The allegations in the F.I.R. are absolutely general and omnibus and no specific instance could be given for holding the certificate of the petitioner to be forged and fabricated. The petitioner had been continuously working on the post since her date of joining and was paid her salary till November, 2018.

7. During the course of investigation, it came to light that the enquiry was being conducted against the



petitioner on the premise that she had passed only one part of the BETET examination, whereas she had not passed in the other part.

8. It has been brought to the notice of this Court that in the scheme of the examination of BETET, there is no requirement of passing both the papers. The candidates desirous of obtaining appointment of teachers for particular classes could either pass in Part-I or Part-II or both the Parts of the examination.

9. In one of the matters, namely, in the case of *Chandani Kumari Vs. The State of Bihar and Ors.* (C.W.J.C. No. 9786 of 2019), this Court had asked the Vigilance counsel to inquire into the matter. This Court was taken through the entire investigation papers and it was discerned that the investigator had only mechanically signed on the documents furnished before him. Even, the records in the database of BSEB do not indicate that the certificate of BETET of the petitioner is forged and fabricated. The only reason for suspecting that the certificate of the petitioner is forged is that she has passed



in one part of the examination but not in the other. For candidates to be appointed as teachers for Class-VI to VIII, there is a requirement of passing in Paper-I only, whereas for appointment for Classes-I to V, the candidate must pass in Paper-II of the examination. Those candidates who have passed in both the papers would have the eligibility to apply for the post of teachers for all the classes. This, therefore, necessarily implies that the petitioner was eligible to be appointed as teacher for the respective classes.

10. This Court was also apprised of the complaint made by some of the candidates before the Director General of Police with respect to such faulty investigation, on which, an enquiry had been set-up and before such enquiry team, the two erring police officials admitted of having signed such reports mechanically without verifying the correctness of the allegation or the defense of such teachers.

11. The counsel for the Vigilance, in the aforesaid case, had apprised this Court that the conduct of



the Vigilance Officer was found to be absolutely unpardonable and, therefore, he was subjected to a departmental proceeding and had also been given a punishment of one black mark.

12. The BSEB in its report had also admitted that in their database, the petitioner, in that case, was shown to have passed in one of the papers of the examination.

13. In the case of this petitioner, no notice appears to have been issued to her to explain the circumstances.

14. During the pendency of this writ petition, the appointment of the petitioner has been terminated.

15. In the case of Chandani Kumari (*supra*), this Court had set-aside the order of termination of her services and a decision was required to be taken by the Director, Primary Education, Department of Education, Govt. of Bihar, Patna with respect to the termination of the services of the petitioner and consequent resumption of her salary.



16. Considering the aforesaid view taken by this Court in the case of Chandani Kumari (*supra*), in the present case also, the termination order of the petitioner is set-aside.

17. The petitioner is directed to make a suitable representation before the Director, Primary Education, Department of Education, Govt. of Bihar, Patna (respondent No. 3) along with a copy of this order within a period of four weeks, the concerned respondent shall look into the same and shall pass necessary orders accordingly, resuming the salary of the petitioner which has been stopped only on the ground of pendency of the investigative process or any other order/orders which would be a necessary sequel and deemed necessary in this case. The aforesaid decision shall but be subject to the final outcome of the investigation of the case.

18. In case, the petitioner is found to be guilty, necessary consequences shall follow.

19. This Court reiterates that the police is under an obligation to conclude the investigation at the



earliest.

20. With the aforesaid observation/direction,
the writ petition stands disposed off.

21. Interlocutory application, if any, also
stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.02.2022
Transmission Date	N/A

