

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 23734 of 2018

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Mushtaque Alam S/o Late Abdul Hasan R/o Master Hasan Lane, Mohalla Old
Karimganj, Police Station- Civil Line, District-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resource Development Department, Government of Bihar, Patna
2. The Principal Secretary of Human Resource Development Department, Government of Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Magistrate, Gaya
5. The District Education Officer, Gaya
6. The District Programme Officer, Establishemt, Gaya
7. The Block Education Officer, Imamganj Block, District Gaya

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Mr. Jitendra Kumar Roy 1 -SC 13

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 19-09-2023

1. The present writ petition has been filed for quashing the order of termination of the services of the petitioner dated 15.11.2018, passed by the District Education Officer, Gaya i.e. the respondent no. 5.

2. The brief facts of the case are that the petitioner was appointed by an order dated 31.01.2012, issued by the District Education Officer, Gaya as Assistant Teacher in Urdu Shamshabad (Imamganj) College, in compliance of the order



passed by the Hon'ble Apex Court in Contempt Petition (Civil) no. 297 of 2017. It is the case of the petitioner that all of a sudden, by an order dated 15.11.2018, the District Education Officer, Gaya has terminated the services of the petitioner, without either seeking permission from the Hon'ble Apex Court or without initiating any regular departmental proceedings, on the pretext that the B.Ed. Degree being possessed by the petitioner has been obtained from Sogra College of Education, Biharsharif, Nalanda, a College which though is affiliated to the Magadh University, Bihar, Patna, however the same is not recognized by the State Government.

3. The learned counsel for the petitioner has referred to a judgment dated 28.08.2023, rendered by the learned Division Bench of this Court in ***L.P.A. no. 1254 of 2016 (The State of Bihar & Ors. vs. Sanjay Kumar Choudhary & Ors.)*** and other analogous cases, to submit that the learned Division Bench of this Court has held that since the incumbents have been appointed as per the directions of the Hon'ble Apex Court under the supervision of Hon'ble Mr. Justice S.K. Chattopadhyay committee, they cannot be terminated on the ground of their qualifications having not been properly verified, unless otherwise permitted by the Hon'ble Apex Court. In this regard,



he has referred to paragraphs no. 16 and 17 of the said judgment rendered in the case of ***Sanjay Kumar Choudhary (supra)***, which are reproduced herein below:-

“16. We are of the definite opinion that in the present case where all the party-respondents were appointed as per the directions of the Hon’ble Supreme Court, under the supervision of Justice Chattopadhyay, cannot be terminated on grounds of qualifications not having been properly verified; unless otherwise permitted by the Hon’ble Supreme Court. The party respondents were appointed after their eligibility being settled by Justice Chattopadhyay, appointed by the Hon’ble Supreme Court, to oversee the selection and appointment of teachers to the vacant posts, identified as available, as per the undertaking made by the State before the Hon’ble Supreme Court. Though the verification of credentials and qualifications of the candidates were directed to be done, there could be no such verification at this late stage. As noticed by the learned Single Judge in the impugned judgment the State ought to have been more vigilant when the appointments were carried out.

17. We hence find no merit in the appeals filed by the State and dismiss the same.”

4. The learned counsel for the petitioner has further submitted that the name of the petitioner also figures in the list of 34,540 elementary teachers, approved by the Hon’ble Apex



Court on the recommendation made by the Hon'ble Mr. Justice S.K. Chattopadhyay (retired) Committee and that is why, he was appointed vide order dated 31.01.2012.

5. The learned counsel for the petitioner has contended that the Hon'ble Apex Court, in its judgment passed in S.L.P. (C) no. 26824 of 2012, has directed as under:-

“.... We make it clear that none of the persons appointed out of the 34,540 vacancies should be disturbed in any way, but the question of filling up the balance vacancies may be taken into consideration, while disposing of the applications in question.”

6. *Per contra*, the learned counsel appearing for the respondent- State has though pointed out that the College from where the petitioner has obtained B.Ed. Degree is not recognized by the State Government, nonetheless he has not disputed the fact that the present case is squarely covered by the judgment rendered by a Ld. Division Bench of this Court in the case of ***Sanjay Kumar Choudhary (supra)***.

7. Having regard to the facts and circumstances of the case and considering the law laid down by the learned Division Bench of this Court in the case of ***Sanjay Kumar Choudhary (supra)***, the order of termination of the services of the petitioner dated 15.11.2018, passed by the District Education Officer,



Gaya is not sustainable in the eyes of law, hence is quashed. It is further directed that the petitioner shall be entitled to similar benefits as has been granted to other terminated teachers, whose orders of termination have been set aside by the learned Division Bench of this Court in *L.P.A. No. 1254 of 2016 and other analogous cases.*

8. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	NA

