

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4926 of 2020

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1. Chandani @ Chandani Jha D/o Ravindra Jha, Resident of Mohalla- Ward No. 4, Kaushik Nagar, P.S. K. hat, District- Purnia.
 2. Sonali Kumari, D/o Late Jai Prakash Singh, Resident of Village - Indira Nagar, Laliyahi, P.S.- Katihar, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Finance Secretary, Finance Department, Government of Bihar, Patna.
4. The Director, Secondary Education, Government of Bihar, Patna.
5. The District Education officer, Purnea.
6. The District Programme Officer, Purnea.
7. The District Officer Information and Science, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vipin Kumar, Adv.
For the State	:	Mr. Prabhat Ranjan Singh, AC to Aag15

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 3 04-01-2023 1. Heard learned counsel for the parties.
2. The petitioner by way of this writ petition has prayed as under:-

“1. That the petitioner in the present writ application prays for issuance of an appropriate writ/order/direction commanding the respondents for the following reliefs :-

I. For quashing of Memo No. 134 dated 20.11.2019 issued under signature of



respondent no. 5 whereby service of the petitioners as a guest teacher appointed in the different school of Purnea District has been terminated in the light of direction issued by the respondent no. 4.

II. For quashing of Memo No. 555 and 556 both dated 09.09.2019 issued by respondent no. 4 whereby and where under direction has been issued to terminated the service of the petitioners without giving any opportunity of hearing.

III. For direction upon the respondent authority to reinstate the petitioners.

IV. For direction upon the respondent authority to allot the work to the petitioners.

V. For direction upon the respondent authority to pay the remuneration to the petitioners.

VI. For any other relief/reliefs to which the petitioners are found entitled to.”

3. The question raised by the petitioner is no more res integra in C.W.J.C. No. 23 of 2020 and connected petitions decided by this Court on 13.04.2022.

4. This Court in C.W.J.C. No. 23 of 2020 has observed as under:-



“As regards, the teachers, who have been appointed after 05.08.2018 are concerned, it is noticed that in few of the Districts the teachers have been allowed to continue, while in some other Districts their services were dispensed with after a period of having works for more than one year.

Their services were required and the very appointment was with the purpose to provide education to the students in a situation where regular appointments could not be made. The power of appointment was given to the District Education Officer. The only objection which has come forth from the Department is of violation of the order passed by the Principal Secretary in not taking prior sanction from him by the District Education Officer. It is not a case where their appointments have been made by a back door entry or without following due process of law. At best the appointment can be said to be irregular and post facto sanction could have been always taken from the Principal Secretary for continuing them. No action has been taken against the District Education Officer.

This Court while passing the interim order in their favour has also observed that principles of natural justice were required to be followed which have



admittedly not been followed. The principle of Audi alterem partem has been violated and any action taken contrary to the same taking away a vested right of an employee affecting his lief would have to be treated as void ab initio. Hence, the impugned action is un-sustainable in law.”

5. However, in the present case there is no interim order passed and, therefore, the relief as granted hereinabove cannot be granted to the petitioner. The petitioner would however, entitled to be allowed to continue as a Guest Faculty and if the Teachers are required on Guest Faculty, the petitioner services shall be taken into consideration.

6. The writ petition is partly allowed as above.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 50

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