

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6971 of 2019

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Kausar Rahman W/o Khurshid Akhtar Resident of Mohalla- Millat Nagar,
P.S.- Aurasngabad, Distt.- Aurangabad Petitioner

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
2. The Principal Secretary Human Resources Development Department, Govt. of Bihar, Patna
3. The Director Primary Education, Bihar, Patna
4. The District Magistrate Aurangabad
5. The District Education Officer Aurangabad
6. The District Programme Officer, Establishment Aurangabad

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
For the Respondent/s : Mr. Madhaw Prasad Yadav, GP-23
Mr. Arvind Kumar, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 12-09-2023 This writ application has been filed seeking the following reliefs:-

“(i) For issuance of writ of certiorari quashing office order contained in Memo no.219 dated 21.2.2019 (signed dated 18.2.2019) issued under the joint signature of respondent no. 5 and 6 whereby and whereunder the petitioner has been terminated from service on non-est ground and further directed received as salary, in teeth of order passed by Hon’ble Supreme Court and in violation of principles of nature justice as well as without initiating disciplinary proceeding.

(ii) For issuance of direction commanding the respondent authorities to not disturb the petitioner from discharging his duties during the pendency of the present writ petition.

(iii) For any other writ/writs, order/orders which the petitioner may found entitled in



the facts and circumstances of the case.”

2. Learned counsel for the petitioner submits that this case would be covered by the recent judgment dated 28.08.2023 delivered by the Hon’ble Division Bench of this Court in L.P.A. No. 1254 of 2016 arising out of CWJC No.16580 of 2014 and other analogous matters.

3. It is submitted that this petitioner also figured in the list of 34,540 Elementary Teachers approved by the Hon’ble Apex Court on the recommendation made by Hon’ble Mr. Justice S.K. Chattopadhyay (Retd.) Committee.

4. Learned counsel submits that the Hon’ble Supreme Court has in it’s judgment in SLP (C) No. 26824 of 2012 directed inter-alia 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.”

5. It is, in view of the aforementioned clarity given by the Hon’ble Supreme Court in it’s judgment, the Hon’ble Division Bench of this Court has held in L.P.A. No. 1254 of 2016 and other analogous matters that there could be no termination on the basis of a further verification. The views



expressed by the Hon'ble Division Bench of this Court may be found in paragraph '16' as under:-

“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.”

6. Learned counsel for the State is present. It is submitted that if the petitioner is an appointee from the list of 34,540 candidates which was approved by the Hon'ble Supreme Court, then the Hon'ble Division Bench judgment would be applicable in her case as well.

7. Having regard to the submissions noted hereinabove, in view of the developments in the form of



Hon'ble Division Bench judgment in L.P.A. No. 1254 of 2016 and other analogous cases, this Court sets aside the impugned order of termination and directs the respondents to consider the case of the petitioner keeping in view the Bihar Litigation Policy, 2011 in the light of the judgment of this Court rendered in L.P.A. No. 1254 of 2016 and other analogous matters and grant similar benefits to the petitioner as have been given to the other terminated teachers of the said list.

8. Let the entire exercise be completed within a period of three months from the date of receipt/production of a copy of this order.

9. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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