

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6386 of 2013**

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Shyambabu Choudhary, S/O Late Jagnath Prasad Choudhary, R/O Village-  
Jadhua Barai Tola, P.S.+P.O.- Industrial Area Hajipur, District- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar, through the Commissioner cum Secretary, Department of Education, Government of Bihar, New Secretariat, Bihar, Patna
2. The Director Department of Primary Education, Government of Bihar, New Secretariat, Bihar, Patna
3. The District Magistrate, Vaishali
4. The District Education Officer, Vaishali
5. The District Programme Officer Establishment, Vaishali
6. Block Education Officer, Raghapur, Vaishali
7. The Bihar School Examination Board through its Secretary, Bihar School Examination Board, Patna

... .. Respondent/s

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**Appearance :**

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|----------------------|---|----------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Gyanendra Kumar Shukla, Advocate<br>Mr. Shashi Bhushan Kumar, Advocate |
| For the State        | : | Mr. Madhukar Mishra, AC to SC-16                                           |

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**

**Date : 01-12-2023**

1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application praying for quashing the memo no.1315 dated 28.2.2013 issued by the District Education Officer, Vaishali (respondent no.4) whereby and whereunder the appointment of the petitioner as Assistant Teacher was cancelled, to direct the respondent authorities not to disturb the petitioner in discharging his duties and for other reliefs.



3. The case of the petitioner in brief is that having obtained his training from Arya Primary Teacher's Training College, Chhatwara, Mahua, Vaishali in the session 1979-81 and being eligible in all respects, the petitioner filed an application for appointment as an Assistant Teacher pursuant to the Advertisement no. 210/2010 issued by the Bihar Staff Selection Commission, Patna. In light of the direction of the Hon'ble Apex Court, the Bihar Staff Selection Commission prepared a panel of 34,540 trained Assistant Teachers for appointment. The petitioner's name also figured in the said panel.

4. Referring to the Division Bench order of this Court dated 28.8.2023 passed in LPA no. 1254 of 2016, learned counsel for the petitioner submits that it was categorically held therein that persons appointed in the 34,540 vacancies could not be disturbed. The petitioner being amongst those appointed against the said vacancies, the order of termination as contained in the order impugned dated 28.2.2013 was illegal, the order was not sustainable and fit to be set aside with all consequential benefits to the petitioner.

5. Different counter affidavits were filed on behalf of the respondents at different stages. Lastly, in the counter affidavit filed on behalf of the District Programme Officer



(Establishment), Vaishali (respondent no.5) on 8.11.2023 it has been categorically stated in paragraph no.10 thereof that the case of the petitioner is also covered by the judgment passed by the Division Bench in LPA no. 1254 of 2016 and other analogous cases and as such the claim of the petitioner may be disposed of in light of the said order.

6. At this stage, it would be relevant to quote paragraph no.16 of the Division Bench judgment dated 28.8.2023 passed in LPA no. 1254 of 2016 (The State of Bihar & Ors. vs. Sanjay Kumar Chaudhary & Ors. and other analogous cases) which is as follows:-

*“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.”*

7. In view of the aforesaid judgment dated 28.8.2023 and the categorical stand of the respondents in paragraph no.10 of the counter affidavit of respondent no.5 as referred to herein above, this writ application is allowed. The order contained in memo no.1315 dated 28.2.2013 passed by the District Education Officer, Vaishali (respondent no.4) setting aside the appointment of the petitioner as an Assistant Teacher is hereby quashed with all consequential benefits and the writ application is allowed.

8. The petitioner shall be entitled to the arrears of salary for the period he was illegally restrained from working as an Assistant Teacher and the same shall be paid to the petitioner by the District Education Officer, Vaishali (respondent no.4) within a period of four months from the date of receipt of a copy of this order.

**(Partha Sarthy, J)**

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