

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.855 of 2021

- 1(i) Raj Kumari, Wife of Late Ram Nandan Mahto Resident of Village and P.O.- Kaviya, P.S.- Bhagwanpur, District- Begusarai.
- 1(ii) Abhijeet Kumar, Son of Late Ram Nandan Mahto Resident of Village and P.O.- Kaviya, P.S.- Bhagwanpur, District- Begusarai.
- 1(iii) Saurav Kumar, Son of Late Ram Nandan Mahto Resident of Village and P.O.- Kaviya, P.S.- Bhagwanpur, District- Begusarai.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Bhawan, Patna.
4. The Director, Primary Education, Govt. of Bihar, Patna.
5. The District Education Officer, Begusarai, District- Begusarai.
6. The District Program Officer, Establishment (Education), Begusarai.
7. The Block Education Extension Officer, Bhagwanpur, District Begusarai.
8. The Headmaster, Upgraded Middle School, Girl, Kaviya, Bhagwanpur, District Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Mr. Prabhakar Jha, GP-27

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-09-2023

I.A. No. 3 of 2023

Learned counsel for the petitioners submits that the petitioner has died, hence, the substitution petition has been filed.

2. Let the interlocutory application be taken on the record.

Office shall register it.

3. There is no opposition to the interlocutory application, hence, it is allowed.



4. The name of the original petitioner in CWJC No. 855 of 2021 shall be expunged and in his place the name of substituted legal heirs as per paragraph '4' of the interlocutory application shall be recorded.

5. This application has been filed seeking quashing of the order as contained in Memo No. 1680 dated 25.06.2020 (Annexure '19') issued under the signature of the District Education Officer, Begusarai whereby and whereunder the petitioner has been terminated from the date of appointment and further prays to direct the respondent authorities to reinstate the petitioner in service with full back wages.

6. Learned counsel for the petitioners 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.

7. It is submitted that the original 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.

8. Learned counsel submits that the Hon'ble Supreme Court has in its 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.”

9. 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.”

10. Learned counsel for the State is present. It is submitted that if the original 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 his case as well.

11. 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 and take an appropriate decision 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 allow similar benefits.

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

13. The substituted legal heirs of the original petitioner (since deceased) shall be entitled for the consequential benefits, if any.

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

(Rajeev Ranjan Prasad, J)

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