

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11029 of 2023

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Ghanshyam Biyogi Son of Late Nunulal Thakur, Resident of Village- Samsa, ward no. 16, PS- Nowkothi, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary -cum- the Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Munger Division, Munger.
5. The District Education Officer, Begusarai.
6. The District Programme Officer (Establishment), Begusarai.
7. The District Programme Officer, Samagra Shiksha Abhiyan, Begusarai.
8. The Block Education Officer, Begusarai, District- Begusarai.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Madanjeet Kumar, GP-20

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-09-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner in the present case is seeking an appropriate writ in the nature of certiorari for quashing the memo no. 3904 dated 30.09.2022 (Annexure '12') issued under the joint signature of the District Education Officer, Begusarai and the District Programme Officer (Establishment), Begusarai by which the petitioner has been terminated from the post of Assistant Teacher, Govt. Middle School Marwari Bhajnashram, Begusarai from the date of appointment. The petitioner also prays to quash the Memo No. 94-Begusarai dated 09.01.2023 (Annexure '13') issued under the joint



signature of the District Education Officer, Begusarai and the District Programme Officer (Establishment), Begusarai by which the earlier Memo No. 3904 dated 30.09.2022 has been modified to the extent that the services of the petitioner is terminated from the date of issuance of the aforesaid letter i.e. since 30.09.2022 instead of his date of appointment. The petitioner further prays to direct the respondent authorities to reinstate him on the post of Assistant Teacher, Govt. Middle School Marwari Bhajnashram, Begusarai.

3. 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.

4. 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.

5. 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.”

6. 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.”

7. 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 his case as



well.

8. 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 both the impugned orders dated 30.09.2022 and 09.01.2023 as contained in Annexures '12' and '13' respectively 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.

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

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

(Rajeev Ranjan Prasad, J)

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