

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2450 of 2024

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Sunil Kumar Ray Son of Shri Ram Babu Ray, Resident of Village- Fatehpur,
P.O. Anjani, Police Station Parsa, District Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Human Resources Department, Bihar, Patna.
2. The Chair Person, State Appellate Authority, Patna.
3. The District Teacher Employment Appellate Authority, Saran at Chapra.
4. The District Magistrate, Saran at Chapra.
5. The Block Development Officer, Parsa, District Saran.
6. The Block Education Extension Officer, Parsa, District Saran.
7. The Mukhiya Gram Panchayat Raj, Anjani, Block Parsa, District Saran.
8. The Panchayat Secretary, Gram Panchayat Raj Anjani, Block Parsa, District Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Parmod Ban Bihari Singh
For the Respondent/s	:	Mr. Sumant Kumar Singh, GA 2
		Mr. Vinay Kirti Singh, AC to GA 2

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 14-11-2024

Heard the parties.

2. This writ petition has been filed for quashing order dated 20.07.2021 passed by Respondent No. 2 and Memo No. 217/C dated 17.01.2009 directing Block Development Officer, Parsa, District Saran (Respondent No. 5) to terminate the service of petitioner as Panchayat Teacher and for quashing consequential order dated 27.8.2009 issued by the District Teacher Employment



Appellate Authority, Saran at Chapra (Respondent No. 3) whereby, service of the petitioner was terminated.

3. Brief facts of the case are that pursuant to an advertisement of employment of ten Panchayat Teachers in Gram Panchayat Raj Anjani, Block Parsa in District Saran, petitioner having requisite qualification of Intermediate applied for the said post under Backward Category and thereafter, petitioner was sent for service training of 51 days in the year 2007 conducted by the *Sarva Shiksha Abhiyan*. Later, on 17.01.2009, all of a sudden, District Magistrate, Saran, Chapra *vide* Memo No. 217/C (Annexure P-3) directed to terminate the petitioner from service and pursuant to the same, Block Development Officer, Parsa passed an order of his termination on 05.02.2009 *vide* Memo No. 21 (Annexure P-4). Petitioner filed CWJC No. 5770 of 2009 against the order dated 17.01.2009 which was heard and disposed of on 06.05.2009 (Annexure P-5) granting liberty to the petitioner to challenge the aforesaid order before Respondent No. 2. Thereafter, petitioner filed case No. 897 of 2009 before the Respondent No. 3 which was rejected with a direction to realize paid salaries from petitioner and to lodge an F.I.R. against him. Against the termination order dated 27.8.2009, petitioner preferred an appeal



before the State Appellate Authority, Patna *vide* Appeal No. 368 of 2019 which was also dismissed *vide* order dated 26.07.2021.

4. Learned counsel for the petitioner submits that petitioner was terminated from the service without any prior notice or show cause. He next submits that certificates submitted by the petitioner have been declared forged and fabricated and at no point of time petitioner was given any opportunity of hearing. Thus, the impugned order of termination has been passed without compliance of natural justice.

5. On the other hand, learned counsel for the State respondent submits that petitioner was applicant for employment of Panchayat Teacher in the first phase but he was not appointed under the B.C. Category. Against the employment of nine Panchayat Teacher, one Manish Kumar and others moved before co-ordinate Bench of this Hon'ble Court *vide* CWJC No. 9919 of 2007 which was disposed of on 10.08.2007 with liberty to approach before Respondent No. 4 who, later on, cancelled the entire selection made by the Employment Unit and directed to lodge F.I.R. against the *Mukhiya* and Panchayat Secretary *vide* order dated 17.01.2009. He further submits that instant writ application has been filed after inordinate delay and there is no explanation for the same. The marksheets which were furnished by the petitioner were found to be



forged and fabricated. He further contends that petitioner, in the entire writ application, has not disputed the fact that he was appointed on the basis of manipulated merit list. Inasmuch as, according to the petitioner, he has secured 414 marks in the Intermediate Examination and has passed Intermediate of Arts in the Second Division whereas, in the merit list prepared by the Employment Unit, petitioner was shown to have obtained 743 marks and the said list was subsequently altered and petitioner was placed on top in the merit list in the BC Category having secured 620 marks out of total 900 marks on the basis thereof, nine other Panchayat Teachers were selected.

6. It is case of the petitioner that he obtained only 414 marks in the Intermediate Examination and has passed Intermediate of Arts in the Second Division. It is also not in dispute that Employment Unit prepared merit list in which petitioner was shown to have obtained 743 marks which was, subsequently, amended and petitioner was placed on the top of amended merit list in the B.C. Category having secured 620 marks out of 900 and thus, got selected. In other words, it is not disputed by the petitioner that the merit list which was prepared by the Employment Unit on the basis of which he got appointed was not reflecting correct marks of the



petitioner and petitioner got appointed on the basis of manipulated and manufactured merit list.

7. It is settled law that non-observation of principles of natural justice vitiates the order only when some real prejudice is caused to the person out of such omission. In this case, petitioner has not disputed the fact that merit list on the basis of which he was appointed was manipulated and did not reflect the correct marks of petitioner. Violation of principle of natural justice becomes vital only when it is a case of prejudice to the person concerned. In this case, no prejudice has been caused to the petitioner. As such, I do not find any infirmity or fallacy in the findings arrived at in the impugned orders.

8. Further submission advanced on behalf of the petitioner is that similar illegality was made in respect of other candidates and therefore, petitioner should also be given the same benefits. The aforesaid submission cannot be accepted for the simple reason that illegality cannot be perpetuated and petitioner cannot claim parity in the case of illegality.

9. This writ application is devoid of merit and accordingly, stands dismissed.



(Prabhat Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.11.2024
Transmission Date	N/A

