

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17979 of 2016

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Vinay Prabhakar Chaubey Son of Kamlekar Chaubey, resident of Village Ahirauli, P.S. Industrical Area Buxar, District- Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Human Resource Development Department, Government of Bihar, Patna.
2. The District Magistrate, Buxar.
3. The District Education officer, Buxar.
4. The Sub- Divisional Magistrate, Buxar.
5. The District Programme Officer, Buxar.
6. The Block Development Officer, Buxar.
7. The Block Education Extension officer, Buxar.
8. The Panchayat Secretary, Ahirauli.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Manoj Kumar Singh, Advocate
For the Respondent/s	:	Mr.Jitendra Kumar Roy No-1, SC 13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

Date : 10-05-2024

1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for quashing of Memo no. SSA-216/ Buxar dated 25.04.2006, issued by the District Education Officer, Buxar, by which the appointment of petitioner on the post of Panchayat Shiksha Mitra (in short "P.S.M.") has been cancelled.



The petitioner has further prayed for a direction to the respondents to reinstate the petitioner on the post of P.S.M./ Panchayat Teacher along with consequential benefits.

3. The present case pertains to appointment of Panchayat Shiksha Mitra in the year 2005. The petitioner had applied for appointment on the post of P.S.M. on 05.05.2005 and accordingly, appointed as P.S.M., joined the Middle School, Ahirauli and started teaching in the said School, Thereafter, vide impugned order dated 25.04.2006, the appointment of the petitioner and other appointees was cancelled on the ground of irregularities committed by the Mukhia of the concerned Gram Panchayat in the appointment of P.S.M.

4. The submission of the learned counsel for the petitioner is that similarly situated person namely Shivji Rai, whose appointment was also cancelled by the impugned order, was reinstated in compliance of the order passed in Case no. 98 of 2007. The further submission is that the impugned order has been passed without assigning any reason and in violation of principle of natural justice.

5. Learned counsel for the respondents argued that after coming into force the ***Bihar Panchayat Elementary***



Teachers (Employment and Service Conditions) Rule, 2006 (hereinafter referred to as “***the Rule, 2006*”**), post of P.S.M. has been abolished w.e.f. 01.07.2006, as such, no direction may be issued for reinstatement of the petitioner, as he was not working as P.S.M. as on 01.07.2006 and his case cannot be considered for appointment as P.S.M., in view of the Full Bench judgment of this Court in the case of ***Kalpana Rani v. The State of Bihar and others***, reported in ***2014(2) PLJR 665***.

6. I have heard learned counsel for the parties. The petitioner’s appointment was cancelled on 25.04.2006, which is before the date of coming into force the “***2006 Rules*”** i.e. on 01.07.2006. The post of Panchayat Shiksha Mitra is abolished after 01.07.2006. No person can be employed/ claim employment/ deemed employment as P.S.M./ Panchayat Teacher retrospectively, as held by Division Bench of this Court in the judgment rendered in the case of ***Smt. Renu Kumari Pandey & others v. The State of Bihar and others***, reported in ***2011 (4) PLJR 297 (DB)***. The judgement of the Division Bench has been affirmed by the Full Bench of this Court in the case of ***Kalpana Rani v. The State of Bihar and others***, reported in ***2014(2) PLJR 665***, wherein, in paragraph



no. 118, it has been held as follows :-

“118. Having thus given my anxious consideration, I am of the view that after 1.7.2006, no person, who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 1.7.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench judgment in the case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly, overruled.”

7. Admittedly, the petitioner was not employed as Panchayat Shiksha Mitra on 01.07.2006 i.e. at the time of conversion of P.S.M. as Panchayat Teacher. Accordingly, the petitioner has no right to claim employment/ deemed employment as P.S.M. or has right to be absorbed in the



services as Panchayat Teacher by operation of ***Rule 20(iii) of Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006.***

8. In the result, the present writ application, being devoid of any merit, is dismissed.

(Anil Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2024
Transmission Date	NA

