

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18143 of 2016

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Nishi Kumari W/o Sri Rang Ojha, Resident of Village- Dehura, Post- Patar,
P.S.- Raghunathpur, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Govt. of Bihar, at Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer, District Siwan.
4. The District Programme Officer (Establishment), District- Siwan.
5. The District Treasury Officer, District Siwan.
6. The Block Education Officer, Block Goriakothi, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shekhar Singh, Advocate Mr. Praveen Kumar, Advocate
For the Respondent/s	:	Mr. Shankar Kumar Thakur, A.C. to G.P.27

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 2 08-02-2024 1. Heard learned counsel for the petitioner and learned
counsel for the respondents.
2. The petitioner has filed the instant application for
the following relief(s):

“(i) For issuance of appropriate writ/order/direction including the writ in the nature of certiorari for quashing the impugned memo no. 2376/Siwan dated 8.8.2015 (as contained in annexure-1) issued under the signature of District Education Officer, Siwan (respondent no.3) whereby and where under the services of the petitioner has been terminated without conducting any departmental proceeding or given any opportunity of hearing on frivolous and unreasonable ground ignoring the orders of the



Hon'ble Supreme Court as well as also the Guideline as issued by the State Govt. itself in the year 1988/89.

(ii) For issuance of an appropriate writ/writs in the nature of Mandamus for commanding/directing the official respondents to take the petitioner back in to her services and not to disturb her from performing her duty and to make payment of her salary with all the arrears on regular basis.

(iii) For grant of any other relief/reliefs for which petitioner deemed entitled to.”

3. The case of the petitioner in brief is that having passed her Diploma in Teaching (Shiksha Ratna) for the session 1982-84 from Bhartiya Vidyapeeth, Mumbai in the year 1984 and being eligible in all respects, the petitioner applied for and was selected and appointed as an Assistant Teacher in Upgraded Middle School, Majhwaliya, Block Goriakothi, District Siwan on 11.2.2012. By the order impugned, contained in memo no.2376 dated 8.8.2015 issued under the signature of the District Education Officer, Siwan, the appointment of the petitioner has been cancelled on the ground that adequate satisfactory evidence was not produced by the petitioner with respect to the recognition of the institution from where the petitioner had obtained her Diploma in Teaching.

4. Learned counsel for the petitioner submits that there being no dispute with respect to the fact that the petitioner



was amongst the Assistant Teachers appointed against the 34540 posts, the order impugned is in the teeth of the judgment of the Hon'ble Supreme Court dated 18.7.2013 passed in SLP (C) no.26824 of 2012.

5. In response, learned counsel for the respondents-State referring to the counter affidavit filed on behalf of the District Programme Officer (Establishment), Siwan submits that it was during course of examining the teachers training certificate that the genuineness of Bhartiya Vidyapeeth, Mumbai was got enquired into and as per the enquiry report submitted after spot verification by the Deputy Director, Primary Education vide his letter no.14 dated 24.11.2014, that it transpired that the institution in question did not have recognition from any University nor was the said institution in existence. Hence, the order impugned setting aside the appointment of the petitioner as an Assistant Teacher is just and proper. There is no merit in the writ application and the same be dismissed.

6. Learned counsel for the petitioner in response refers to paragraph no.7 of the counter affidavit to submit that the respondents have accepted therein that the name of the petitioner stood included in the final list approved by the



Hon'ble Apex Court and follow up appointment of the petitioner had been made in the concerned district.

7. Having heard learned counsel for the parties and having perused the material on record, it is not in dispute that the petitioner was appointed as an Assistant Teacher against the 34540 vacancies. So far as the appointment against the said vacancies are concerned, the Hon'ble Supreme Court in its order dated 18.7.2013 passed in SLP (C) no.26824 of 2012 made the following observations:

“ We also direct that the applications, special leave petitions and writ petitions filed before us be treated as withdrawn, with liberty to the parties to approach the High Court individually or otherwise, for relief, if any, but without, in any way, affecting the appointments of those teachers who have already been appointed against the vacant 34,540 posts and are working. We have been informed during the hearing that about 2413 posts out of the 34,540 posts were still left to be filled up. All the applications, Special Leave Petitions and Writ Petitions are, therefore, disposed of in the light of the aforesaid observations. 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.” (emphasis supplied)

8. In view of the facts of the case, there remains no doubt that once it is an admitted fact that the petitioner was one of the persons appointed against the aforesaid 34540 vacancies,



the appointment of the petitioner could not be looked into and re-examined. The passing of the order impugned is in teeth of the judgment of the Hon'ble Supreme Court, relevant portion of which has been reproduced above.

9. In view of the facts and circumstances of the case stated herein above, the order impugned contained in memo no.2376 dated 8.8.2015 issued under the signature of the District Education Officer, Siwan is not sustainable and is hereby set aside with consequential reliefs including monetary reliefs which shall be paid to the petitioner within a period of four months from the date of receipt/production of a copy of this order.

10. The writ applications stands allowed.

(Partha Sarthy, J)

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