

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7023 of 2021

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Anil Kumar, S/o Late Vishwanath Ram, R/o Vill- Chakiya, P.O. and P.S.-
Kudva, District- Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Kaimur (Bhabua).
4. The District Programme Officer (Estt.), Kaimur (Bhabua).
5. The Block Development Officer, Kudra, Kaimur (Bhabua).
6. The Block Education Officer, Kudra, Kaimur (Bhabua).
7. The Mukhiya Gram Panchayat Raj Chilbili, Block- Kudra, District- Kaimur (Bhabua).
8. The Panchayat Secretary, Gram Panchayat Raj Chilbili, Block- Kudra, District- Kaimur (Bhabua).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)
Ms. Abhanjalli, AC to GA 12

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 03-12-2024 1. The petitioner has filed the instant writ petition
for the following reliefs:-

*(i) To quash memo no- 27 dated
30.08.2019 issued by Panchayat Secretary,
Gram Panchayat Raj Chilbili, Block - Kudra,
District Kaimur (Bhabua) whereby and where
under the petitioner has been dismissed from the
post of Panchayat Teacher, Primary School
Lalapur, Block - Kudra, District - Kaimur
(Bhabua) on the ground of forge certificate. A*



copy of memo dated 30.08.2019 is annexed as ANNEXURE-1 to this application.

(ii) To direct the respondents to pay arrears of salary to the petitioner since June 2019 till date with statutory interest as well as current salary on month to month basis.

(iii) To direct the respondents to reinstate the petitioner on his respective post with all the consequential and monetary benefits.

2. The factual matrix of this case leading to the filing of the instant writ petition is as follows:-

Under Panchayat Shiksha Mitra (Appointment on Contracts) Guidelines (Amended), 2004, a Notification No. 1458, dated 11th of August, 2004 was published for selection and engagement of eligible candidates as Panchayat Shiksha Mitra at Panchayat level. The petitioner belongs to Scheduled Caste category and passed Intermediate examination in 3rd division. He applied for the post of Panchayat Shiksha Mitra from Gram Panchayat Raj Chilbili, Block-Kudra, in the District – Kaimur (Bhabhua). The petitioner was appointed as Panchayat Shiksha Mitra in Primary School, Lallpur on 13th of June, 2005. He joined his post on 1st of August, 2005 and since then he was discharging his duties. Subsequently in place of Panchayat Shiksha Mitra (Employment on Contracts) Guidelines



(Amended), 2004, Bihar Panchayat Elementary Teachers (Appointment and Service Conditions) Rules, 2006 came in to force and the petitioner was absorbed as a Panchayat Teacher in the same school. Subsequently, in the year 2014, a Public Interest Litigation bearing C.W.J.C. No. 15459 of 2014 (Ranjeet Pandit & Anr. v The State of Bihar & Ors.) was filed before this Court, alleging, inter alia, that several Panchayat Teachers were appointed on the basis of forged documents. The said writ petition was disposed of on 5th of December, 2016, directing the respondents authority to enquire into the matter and take appropriate action against the persons who allegedly were appointed on submission of forged academic certificates. Subsequently, on 26th of June, 2019, an FIR was lodged against the petitioner and others under Sections 420, 467, 468, 471 and 120B of the IPC alleging inter alia that the petitioner got appointment on the basis of mark-sheet having Roll Code - 1127, Roll No. 1060, claiming that he got 714 marks on Bihar Secondary Education Board Examination, Patna.

3. It is contended on behalf of the petitioner that he appeared in secondary examination conducted by Bihar Secondary Education Board, Patna, having his Roll No. 10160 and not 1060 as alleged and he passed the said examination in



3rd division getting 394 marks. Thereafter, on 30th of August, 2019, the Panchayat Secretary of the concerned Panchayat issued letter removing the petitioner from his post with immediate effect. According to the petitioner, he was not directed to submit any show cause before the decision of removal from his post being taken by the Panchayat Secretary. No departmental proceeding was initiated against him and he was also not a party to C.W.J.C. No. 15459 of 2014. Therefore, the impugned order of removal is arbitrary, inoperative, and violative of Articles 14, 16 and 21 of the Constitution of India.

4. Learned Advocate on behalf of the petitioner refers to Bihar Panchayat Prarambhik Shikshak (Niyojan Awam Seva Sharten) Niyamawali, 2012. Rule 15 (छ) of the said Rule delineates the procedure for departmental action. The said Rules runs thus:-

(छ) अनुशासनिक कार्रवाई.- (i) विद्यालय से आदतन अनुपस्थित रहने, बच्चों को प्रताड़ित करने अथवा अन्य कारणों से नियोजित शिक्षकों एवं अनुदेशकों के विरुद्ध किसी अन्य प्रकार के प्राप्त आरोप के सम्बन्ध में नियोजन इकाई के सचिव के द्वारा स्पष्टीकरण पूछा जायेगा। स्पष्टीकरण प्राप्त होने पर उसकी समीक्षा कर नियोजन समिति के अध्यक्ष की अनुमति से विभागीय कार्रवाई प्रारंभ की जायेगी। किसी मामले में जेल जाने अथवा प्रथम दृष्टया सरकारी राशि के गबन के दोषी पाये जाने पर उसे निलम्बित किया जायेगा। अन्य मामले में विभागीय कार्रवाई की जायेगी। निलम्बन अथवा विभागीय कार्रवाई के क्रम में आरोप पत्र गठित कर जाँच पदाधिकारी से जाँच कराई जायेगी तथा दोषी पाये जाने पर उन्हें निम्न दंड दिये जा सकेंगे:-

लघु दंड-(i) निन्दन

(ii) प्रोन्नति पर रोक

(iii) वेतनवृद्धि पर रोक (असंचयात्मक/संचयात्मक)

वृहत दंड-(i) निम्न पद पर अवनति



- (ii) सेवाच्युति जो भविष्य में किसी नियुक्ति/नियोजन हेतु निरर्हता नहीं होगी।
- (iii) परन्तु यह भी कि किसी अन्य मामले विशेष में विशेष कारण से अभिलिखित रूप से अन्य कोई दण्ड अधिरोपित किये जा सकेंगे।
- (iv) आरोप प्रमाणित होने पर द्वितीय कारण पृच्छा के पश्चात् वृहत्त दण्ड दिये जा सकेंगे।
- (v) निलम्बन अवधि में नियत वेतन की 50% राशि जीवन निर्वाह भत्ता के रूप में देय होगी।
- (vi) दंड सम्बन्धी आदेश नियोजन समिति के सचिव के हस्ताक्षर से निर्गत होगा। इस आदेश में उन तथ्यों का पूर्ण ब्योरा होगा जिसके कारण शिक्षक/अनुदेशक को प्रासंगिक दंड के योग्य पाया गया है।)

5. Plain reading of the above-mentioned Rule clearly states that before taking any departmental action, the concerned teacher shall be directed by the Secretary of the Appointment Unit to submit a reply to the show cause and on receipt of the show cause, the Chairman of the Appointment Unit shall examine the show cause and take decision as to whether the departmental action shall be taken against the concerned delinquent teacher or not.

6. In the instant case, the petitioner was terminated by Panchayat Secretary without holding any departmental enquiry on the basis of Rule 15 (छ) of Bihar Panchayat Prambhik Shikshak (Niyojan & Seva Sarte) Niyamwali, 2012.

7. Having regard to the aforesaid facts and circumstances of the case, the order of termination of the petitioner is set aside. The petitioner is directed to reinstate in service. Monetary benefits to the petitioner for the period during



which he remained terminated shall abide by the enquiry which would be conducted by the respondents, if so advised, after due notice.

8. It is clarified that the inquiry, if any, shall be conducted in accordance with the prescribed procedure and law in that regard and thereafter a final decision shall be taken expeditiously after affording opportunity of hearing to the petitioner.

9. With the aforesaid direction, the instant petition stands disposed of, on contest, however, without costs.

(Bibek Chaudhuri, J)

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