

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4565 of 2020

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Gyanu Kumar, son of Bhola Prasad Singh, resident of village - Barhatia, P.S.-
Vaishali, District- Vaishali. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Bihar School Examination Board through its Chairman, Budh Marg, Patna.
5. The Secretary, Bihar School Examination Board, Budh Marg, Patna.
6. The District Magistrate, Muzaffarpur.
7. The District Education Officer, Muzaffarpur.
8. The District Programme Officer (Establishment), Muzaffarpur.
9. The Block Education Officer, Paru, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vipin Kumar, Adv.
For BSEB		Mr. Satyabir Bharti, Adv.
		Ms. Kanupriya, Adv.
		Mr. Abhishek Anand, Adv.
For the State	:	Mr. Jitendra Kumar Roy1, SC-13

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 08-10-2024

Heard learned counsel for the parties.

2. This writ petition has been filed for the following
reliefs:

“(i) For quashing of Memo No. 279 dated 20.01.2020 issued by the respondent no. 8, addressed to the respondent no. 9, whereby direction has been issued to terminate the petitioner and further to lodge F.I.R.

(ii) For direction to the respondent authority to allow the petitioner to discharge his duty till opening of the strong room or completion



of the investigation.

(iii) For any other relief or reliefs for which the petitioner is found entitled to in the facts and circumstances of this case.”

3. The brief facts of the case is that the petitioner has appeared in TET examination 2011 conducted by the Bihar School Examination Board and was declared qualified. In the year 2014, the petitioner was appointed as Niyojit Teacher in Middle School, Basantpur Paru after following the due process vide Memo No. 577 dated 20.02.2014. After joining, on several occasions, certificate of the petitioner was verified by the different authorities and found genuine but all of sudden without any reason, the respondent no. 9 made an objection on the payment of salary of the petitioner and ultimately respondent no. 7 vide Memo No. 387 dated 23.02.2018 withheld the salary till completion of enquiry.

4. Petitioner, thereafter, moved before this Court by filing C.W.J.C. No. 8723 of 2019 for payment of salary which was disposed of on 14.05.2019 observing that the petitioner would continue to work, on the post, he was working till the Bihar School Examination Board is in a position to verify the certificate and give its final opinion i.e. after opening of the strong room. It is further observed that after receipt of the report from the B.S.E.B., the appropriate authority of the State Government shall give an opportunity of hearing to the petitioner before passing any adverse



orders.

5. On 04.01.2020, all of sudden the Bihar School Examination Board issued Memo No. 8535 in which it is stated that DTR and OTR related to TET examination 2011 has been declared invalid and C.D. has been called from the processor for publication a fresh DTR and OTR. It is further stated that verification of the result card of the petitioner has been made on the basis of C.D. received from the processor accordingly, direction has been issued to take appropriate action in accordance with law. The said letter has been challenged by the petitioner in C.W.J.C. No. 2666 of 2020 which is pending before this Court.

6. It is further case of the petitioner that without opening of strong room which is sealed since June, 2018 and without giving any opportunity of hearing, the respondent authority has issued direction to terminate the service of the petitioner and lodge the F.I.R. vide Memo No. 279 dated 20.01.2020 which is violation of the order dated 14.05.2019 passed in C.W.J.C. No. 8723 of 2019. Thereafter, petitioner learnt that some disqualified persons have been appointed by the respondent in collusion with the B.S.E.B., therefore, with intention to save them a C.D. from the processor after about 7 years has been called for in which those persons have been shown as qualified.

7. Learned counsel for the petitioner submits that



without completion of enquiry by the SIT/Police and without opening of the strong room decision to invalid the entire result/OTR/DTR is nothing but their malafide intention and is a step in order to save their skin. He submits that the malafide action further appears from the fact that C.D. from the processor has been called pursuant to meeting of the Board dated 22.07.2019 but petitioner has been shown as disqualified vide letter dated 02.05.2019 which has already been quashed by this Court vide order dated 14.05.2019. He lastly submits that the plea of the respondent authority regarding interpolation in original records and relying upon the C.D appears to be suspicious as interpolation is C.D. can be made in very easy manner through in hard copy i.e. OTR/DTR it is very difficult and that can be traced out even from open eye. He further submits that the action of the respondent authority appears to be arbitrary and malafide from the fact that without opening the original record i.e. strong room and in absence of completion of enquiry has issued the direction to terminate the service of the petitioner and lodge the FIR.

8. A counter affidavit has been filed on behalf of the respondent nos. 4 and 5 in which inter alia it is stated that the role of the Bihar School Examination Board is confined to the extent of verifying the BETET-2011 result of the petitioner. It is submitted that in the past various complaints stating of irregularities in



BETET-2011 Examination had been received at the Board, considering the seriousness of the issue, the Board had constituted a three men committee to enquire into the matter. The said three men committee, after a detailed enquiry has submitted a report with a clear finding that certain alterations/changes had been found in the working data/CD/Records appertaining to the said BETET-2011 Examination presumably to provide undue advantage to certain candidates of the said examination. Accordingly, a police case bearing Kotwali P.S Case no. 452/2018 was instituted on 19.07.2018, whereupon seeing the seriousness of the matter a Special Investigation Team (S.I.T) was constituted by the police in order to make proper enquiry/investigation in the matter. The SIT during course of investigation had sealed the entire records/data relating to the said BETET-2011.8. The petitioner, who happened to be a Prakhand Teacher under Muzaffarpur district had moved before this Hon'ble Court vide CWJC No. 8723/2019, seeking direction for payment of salary. In the aforesaid case CWJC No. 8723/2019, counter affidavit had been filed by the Board, briefly stating that pursuant to receipt of complaints received from different corners against BETET-2011, a three man committee had been constituted to enquire into the matter which recommended for instituting of substantive criminal case in the matter. Accordingly, P.S. Case No. 452/2018 had been instituted. Since



the SIT while investigating into the matter had sealed the original records (at the relevant time), there had been difficulty in verifying the BETET-2011 result of the petitioner. Therefore, it had been submitted by the Board that if given some, the Board would be able to verify the matter, as the SIT had already been requested to facilitate by verifying the matter by opening the strong room where the original records were kept sealed by the SIT.

9. In such circumstances wherein the records had been sealed by the SIT, hence the original CD had been called from the Data Processor and it was from the said CD that the results of BETET-2011 were verified and decision was taken to invalidate the earlier Tabulation Register of the said Examination and to prepare a fresh Tabulation Register on the basis of original CD, containing the data of BETET/BSITET-2011 result which had been called from the pre and post Data Processor. It was subsequently upon verification of the petitioner's result card of BETET- 2011 from the aforesaid data, the status of the petitioner has been found to be **NOT QUALIFIED**, details of which is as follows:

Roll No.	3713111723
Father's Name	Bhola Prasad Singh
Category	GEN
Sex	Male
Paper-1 Marks	031
Paper-1 Result	Not Qualified



10. On the Aforesaid detailed, communication had been forwarded by the Secretary, Bihar School Examination Board to the concerned District Programme Officer (Establishment), Muzaffarpur (respondent no. 8) vide memo No. NI-3535 dated 04.01.2020 (Annexure-6 of the writ application).

11. Learned counsel for the petitioner has filed a supplementary affidavit stating therein that the respondent authority has not disputed the earlier verification (Annexure-2 Series) which has been done on several occasions. Petitioner has approached the District Education Officer and requested to call for the enquiry report from the Vigilance Enquiry Bureau upon which DEO, Muzaffarpur vide Letter No. 344 dated 02.03.2022 asked the Superintendent of Police, Vigilance for necessary action. In response of Letter No. 344 dated 02.03.2022, the Superintendent of Police, Vigilance Department issued Memo No. 2665 dated 16.03.2022 stating therein that certificate of the petitioner found to be genuine and without seeking report salary of the petitioner has been withheld which is not proper. It is submitted that the Superintendent of Police has issued the Memo No. 2665 dated 16.03.2022 on the basis of Letter No. 172 dated 08.02.2022 issued by the Dy. S.P. Vigilance and Letter No. 74 dated 21.01.2022 whereby report has been sent that certificate of the petitioner is genuine. It is lastly submitted that in similar circumstances, this



Court vide order dated 28.01.2022 passed in CWJC No. 13370/2019 (Anup Kumar & Ors. Vs. The State of Bihar & Ors.) has directed the respondent-authorities to reinstate the applicant. However, service of the petitioner has not been terminated till date but salary is not being paid.

12. It is admitted fact that in C.W.J.C. No. 8723 of 2019 it is directed that the petitioners would continue to work, on the post they were working till the Bihar School Examination Board is in a position to verify the certificates and give its final opinion i.e. after opening of the strong room. It is needless to state that after receipt of the report from the B.S.E.B., the appropriate authority of the State Government shall give an opportunity of hearing to the petitioners before passing any adverse orders. Accordingly, salary will be continued to be paid to the petitioners herein till any adverse order is passed by the B.S.E.B. against the petitioners.

13. It is admitted fact that in this case also no any opportunity has been given to the petitioner before passing any adverse order and the Bihar School Examination Board found the petitioner's certificate is forged on the basis of original C.D. receipt

14. Having heard learned counsel for the parties and after perusal of the case record, it appears that in C.W.J.C. No. 13370 of 2019 same relief has been granted to the petitioner.



Accordingly, this writ petition is allowed quashing the Memo No. 279 dated 20.01.2020 (Annexure-7) issued by the respondent no. 8 addressed to the respondent no. 9. The respondent-authorities is directed to reinstate the service of the petitioner with all consequential benefits.

devendra/-

(Anjani Kumar Sharan, J)

AFR/NAFR	NAFR
CAV DATE	09.09.2024
Uploading Date	08.10.2024
Transmission Date	

