

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10065 of 2021

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Niranjan Kumar S/o Late Ram Bilas Singh Resident of Village and P.O.- B.T. Bigha, P.S.- Sherghati, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The District Magistrate Gaya.
3. The District Education Officer Gaya.
4. The District Programme Officer Primary Education and Sarva Shiksha Abhiyan, Gaya.
5. The Block Education Officer Sherghati, District- Gaya.
6. The Head Master Middle School, B.T. Bigha, P.S.- Sherghati, District- Gaya.
7. Suchit Kumar S/o Late Binod Singh Resident of Village- B.T. Bigha, P.S.- Sherghati, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bhaskar Shankar, Adv Mr. Vijay Anand, Adv
For the State	:	Mr. Madanjeet Kumar, GP 20
For the BEPC	:	Mr. Girijish Kumar, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 26-09-2024

Heard learned counsels for the parties.

2. The present writ application has been filed for commanding the respondent authority to appoint the petitioner as night guard in Middle School, B.T. Bigha as per the direction of District Programme Officer, Gaya (Respondent No.4) which was denied by the Headmaster of the School despite the recommendation of the School Education Committee/ Managing Committee.



3. Learned counsel for the petitioner submits that the case at length is that petitioner has been working as guard in the said school since 22.04.2008 which was earlier named as Mahadalit Boys Residential School on daily wages. At the time of appointment a declaration was furnished by the petitioner before Centre Incharge of the said school on 22.04.2008. (Annexure-1 of the writ application).

4. The said school was declared as “UTPRERAN CENTRE” and thereafter, petitioner was again allowed to continue as the night guard with the permission of Block Education Officer, Sherghati issued vide letter no.145 dated 20.03.2010 but he was appointed on fixed honourarium i.e. Rs.1000/- per month and later on same was revised as Rs.1500/- per month and that was paid time to time. (Annexure-2 of the writ application).

5. He further submits that petitioner continued to work till the year 2013 for which he got the honourarium. After the year 2013, the payments were not done to the petitioner but he was allowed by the headmaster to continue as night guard assuring him that after getting approval from the higher authority he would be paid. During the COVID pandemic in the year 2020, the Government took decision to run smart classes in certain



under “UNNAYAN BIHAR SCHEME” to start smart classes and for which Rs.90,000/- was allotted to the different schools including the present school which is mentioned in Sl. No.61 in the letter issued by the office of “Bihar Shiksha Pariyojna Parishad”, Gaya issued by the District Programme Officer on 25.07.2020.

6. He further submits that the letter issued by the District Programme Officer, Gaya vide letter No.1197 dated 25.04.2020, it is directed to the school to appoint a night guard for taking care for Television, Inverter, etc. which would be installed for smart classes for the school. It is also directed that the appointment of night guard would be purely on temporary basis by the managing committee of school on the fixed honourarium of Rs.5000/- (Annexure-3 of the writ application)

7. That as per the direction, the Headmaster issued notice for the meeting of the managing committee of the school for the appointment of night guard on different dates but finally the notice issued on 14.07.2020 stating therein that the meeting would be convened on 15.07.2020 itself to select the night guard. On the said notice, the meeting was held on 14.07.2020 itself and the managing committee finally given consent to appoint the petitioner as night guard. (Annexure-4 and 5 of the



writ application).

8. He further submits that the petitioner, prior to the said selection applied for that before the District Programme Officer and Headmaster for appointment on 18.06.2020 itself and thereafter when the selection was done by the managing committee, the Headmaster demanded details of AADHAR No. and mobile number which was received on 22.06.2020 by him. (Annexure-6 and 6/A of the writ application).

9. He further submits that the Headmaster despite the recommendation of the Managing Committee of the school in favour of the petitioner appointed another person as night guard to a relative to the Chairman of Managing Committee and rejected the claim of the petitioner. Therefore, being aggrieved with this act of the Headmaster, the petitioner filed an application before District Magistrate, Gaya and District Programme Officer, Gaya on 17.07.2020 itself but nothing has been done as yet. (Annexure-7 and 8 of the writ application).

10. The appointment of a person as night guard against the guidelines of the scheme against the proposal/consent of the Managing Committee of school is itself illegal and without jurisdiction.

11. A counter affidavit is filed on behalf of the respondent



no.4 in which it has been stated that the petitioner appears to be aggrieved by the appointment of one Suchit Kumar, who pursuant to the decision of the Managing Committee had been appointed as Night Guard on contractual basis at B.T. Bigha Sherghati.

12. The respondent no.4 directed the Head Master of several schools to appoint Night Guard under “Unnayan Bihar Scheme” for the safety of hardware for conducting smart classes in the above said schools. The respondent no.4 through letter dated 25.04.2020 clearly stated that the selection of Night Guard will be made by the School Education Committee/ Management Committee. Through the said letter it had also been instructed to obtain an affidavit from the selected Night Guard that he will not claim for regularization of his service.

13. He further submits that the date of appointment was fixed on 24.06.2020 in which 11 persons had applied for the appointment of Night Guard. On 24.06.2020, they assembled for the purpose of selection but in the meantime, the villagers forcibly entered into the meeting room and the selection process was cancelled under pressure.

14. That again a notice was issued on 02.07.2020 under the instructions of Superior Officer for completing the selection



process on 03.07.2020 at 11:00 a.m in presence of deputed Special Executive Magistrate and Officer Incharge, Sherghati P.S. by the order of the S.D.M, Sherghati. Accordingly, the School Education Committee assembled on 15.07.2020 including the Special Executive Magistrate and Officer Incharge, Sherghati P.S. However, the School Education Committee assembled but the President, Secretary and other other members were absent therein. In the said meeting, it was resolved that by secret voting selection should be made and accordingly, after voting one Shri Suchit Kumar/ respondent no.7 got highest vote and scored total 08 vote out of 15 votes and accordingly, he was appointed as Night Guard for middle school B.T. Bigha Sherghati on purely temporary basis for one year only. The petitioner had got only three votes and hence, he could not be appointed.

15. A counter affidavit is also filed on behalf of the respondent no.7 in which it is stated that in a meeting of School Education Committee and after voting respondent no.7 got highest vote and scored total 08 vote out of 15 votes and accordingly he was appointed as Night Guard at Middle School B.T. Bigha, Sherghati on contractual basis for one year. (Annexure-A of the counter affidavit filed on behalf of the



respondent no.7).

16. In reply to the counter affidavit filed on behalf of the respondent no.4, learned counsel for the petitioner submits that the chairperson of the School Education Committee and some members in her connivance intentionally avoided to attend the meeting only to give benefit to her nephew i.e. respondent no.7. On 14.07.2020 itself, the meeting of School Education Committee was held and all the members present in the meeting have unanimously recommended to appoint the petitioner as Night Guard in the said school finding the services of petitioner satisfactory which is apparent from Annexure-5 of the writ application. On the other hand, the Headmaster of the said school i.e. respondent no.6 on 23.06.2020 issued a notice clarifying therein that the appointment of Night Guard cannot be done by voting rather it has to be selected by the School Education Committee.

17. He further submits that with regard to disturbance created by the villagers is totally false and fabricated and this story has been created only to give benefit and to appoint the respondent no.7, who is the nephew of the Chairperson of the School Education Committee of the said school.

18. I have heard the parties at length. It is an admitted fact



that respondent no.7 is the nephew of the Chairperson of the School Education Committee of the said School and earlier the petitioner was appointed on 14.07.2020 itself by the School Committee.

19. Considering the facts and circumstances of the case, this writ application allowed with a direction to the concerned authority to issue the joining letter to the petitioner within a period of one month from the date of receipt/production of a copy of this order.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2024
Transmission Date	NA

