

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6234 of 2023

=====

Sunil Kumar Kishor son of Prameshwar Prasad Yadav, resident of Village-
Itahari, P.S.-Jankinagar, Dist-Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Deptt., Govt. of Bihar, Patna.
2. The Director, Primary Education, Education Deptt., Govt. of Bihar, Patna.
3. The District Magistrate, Purnea.
4. The District Education Officer, Purnea.
5. The District Programme Officer, Purnea.
6. The Block Education Officer, Banmankhi, Dist-Purnea.
7. The Mukhiya cum President, Panchayat Niyojan Unit, Gram Panchayat Mahadeopur, Dist-Purnea.
8. The Panchayat Sachiv cum Member Secretary, Gram Panchayat Raj Mahadeopur, Dist-Purnea.
9. The Headmaster, Primary School, Mahadepur Anchal, Banmankhi, Dist-Purnea.
10. The Chairman, Bihar School Examination Board, Patna.
11. The Secretary, Bihar School Examination Board, Patna.
12. The Director, State Council of Educational Research and Training, Bihar under Bihar School Examination Board, Patna.
13. The Chairperson (A), State Appellate Authority, Education Deptt, Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Binod Kumar Sinha, Advocate
For the State	:	Mr. Kameshwar Kumar, GP-17
For the B.S.E.B.	:	Mr. Sunil Kumar Mandal, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 12-11-2024

Heard learned counsels for the parties.

2. This writ application has been filed for quashing
the order dated 02.12.2022 passed by the Chairperson (A), State



Appellate Authority, Education Department, Bihar, Patna (Respondent No. 13) in O.A. No. 736 of 2022 and also for quashing the letter dated 20.09.2018 issued by the Panchayat Sachiv-cum-Member Secretary, Gram Panchayat, Raj Mahadeopur, District- Purnea (Respondent No. 8) whereby and whereunder the services of the petitioner from the post of Panchayat Teacher has been terminated.

3. In the present case, the services of the petitioner from the post of Panchayat Teacher has been terminated on the ground that the B.T.E.T. certificate submitted by the petitioner has been found to be forged.

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner qualified B.T.E.T. examination in the year 2011 from the Bihar School Examination Board, Patna but his name has been wrongly mentioned as Sunil Kumar in place of Sunil Kumar Kishor and father's name has wrongly been mentioned as Prameshwar Prasad Singh in place of Prameshwar Prasad Yadav and subsequently, the name of father of petitioner in the said B.T.E.T. certificate has been rectified as Prameshwar Prasad Yadav, however, petitioner's name has not been rectified and hence, the action of the respondents in passing the order of



termination is *mala fide*, illegal and contrary to the law. It is further submitted that neither any show cause was asked nor petitioner was given chance of hearing prior to the order of termination.

5. On the other hand, learned counsels appearing on behalf of the respondents submit that after verification of the B.T.E.T. certificate of the petitioner, it was found that the same has been issued in the name of Sunil Kumar and father's name as Prameshwar Prasad Singh whereas name of petitioner is Sunil Kumar Kishor and his father's name is Prameshwar Prasad Yadav. Thus, the B.T.E.T certificate, by virtue of which petitioner obtained appointment on the post of Panchayat Teacher, was found to be forged and fabricated and the petitioner obtained the appointment by using B.T.E.T. result card of some other person.

6. Heard learned counsels for the parties and perused the materials available on record. From perusal of the impugned order it is apparent that the certificate/result card which has been furnished by the petitioner was issued in the name of Sunil Kumar son of Prameshwar Prasad Singh whereas name of petitioner is Sunil Kumar Kishor and his father's name is Prameshwar Prasad Yadav. Thus, neither the name of the



candidate nor the name of father matches to the result card of the B.T.E.T. examination which has been used to get appointment and the details of the petitioner. In Paragraph Nos. 4, 16 and 17 of the writ application, petitioner has accepted that when he submitted an application for correction in the B.T.E.T. certificate, he did not succeed. Petitioner claims that name of father was corrected by handwriting it over the result card but the name of petitioner has not been corrected. In any case, difference in the name of the applicant is in itself sufficient to show that the result card, by virtue of which the appointment has been obtained, did not belong to this petitioner.

7. Law is well settled in this regard that there is no need for compliance of nature justice in case of illegal appointment. It is well settled that if the very appointment to the civil post is vitiated by fraud, forgery, crime or illegality, it would necessarily follow that no constitutional right under Article 311 of the Constitution of India can possibly flow from such a tainted force. It is also well settled that once the very appointment is found to be illegal and is *non est* in the eyes of law, there is no statutory entitlement for salary or consequential rights of pension or other monetary benefits can arise. In this connection, reliance can be made on the judgment in the case of



Bijay Kumar Bharti versus State reported in ***1983 PLJR 667*** and also on the judgment in the case of ***Awadhesh Kumar Choudhary and others versus The State of Bihar and others*** reported in ***1987 PLJR 1074 (FB)***.

8. In the present case, it is not in dispute that the B.T.E.T. result card, on the basis of which petitioner obtained appointment on the post of Panchayat Teacher, was found to be forged and fabricated. The aforesaid fact is not also dispute by the petitioner in the writ application. In that view of the matter, petitioner is not entitled to any benefit on account of principle of natural justice simply because the very appointment of the petitioner was on the basis of forged and fabricated documents and, therefore, he is not entitled for protection under Article 311 of the Constitution of India.

9. In view of the aforesaid facts and circumstances of the case, this Court does not find any infirmity in the impugned order passed by the Chairperson (A), State Appellate Authority, Education Department, Bihar, Patna (Respondent No. 13) or the termination letter issued by the Panchayat Sachiv-cum-Member Secretary, Gram Panchayat, Raj Mahadeopur, District- Purnea (Respondent No. 8) and, therefore, no interference is required.

10. The instant writ application is devoid of any merit



and the same is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.11.2024
Transmission Date	NA

