

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8934 of 2023

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Sri Kumari D/o Mithlesh Singh, Wife of Saket Kumar, Resident of Village and P.O. - Rampur, P.S. - Barbigha, District - Sheikhpura, at Present Utkarmik Middle School, Mahammadpur, P.S. - Shekhopursarai, District - Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Sheikhpura, District - Sheikhpura.
5. The District Programme Officer (Est.), Sheikhpura, District - Sheikhpura.
6. The Executive Officer, Panchayat Samittee-Cum-Member Secretary, Block Teacher Employment Unit, Shekhopursarai, District - Siekhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Subhash Chandra Mishra (Sc16)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 27-11-2024

Heard learned counsel for the petitioner and learned counsel for the respondents/State.

2. The grievance of the petitioner in the present writ petition is that the respondents have terminated the petitioner from the post of Block Teacher without compliance of principles of natural justice i.e. without giving any notice or opportunity of hearing.

3. Learned counsel for the petitioner submits that from bare perusal of the impugned order, it is apparent that the same has



been passed on the direction of higher authorities without application of mind by the issuing authority and as such, impugned order also suffers from any application of mind. The petitioner, having possessed requisite qualification for appointment on the post of Block Teacher, submitted her application for selection and after submission of the application, she was called for the counseling, her mark-sheets & other requisite papers were examined by the selection committee, and finally, she was issued appointment letter dated 15.04.2015. Pursuant to the appointment letter, petitioner submitted his joining as Block Teacher in the Upgraded School Mahanandpur, Block Shekhopursarai, District – Sheikhpura and after serving for more about 8 years without any notice of opportunity of hearing, the petitioner has been terminated from the service, vide Memo No. 395 dated 10.04.2023, issued by Respondent no. 6 (Annexure P/3 to the writ petition). In this connection, the petitioner has placed reliance on a Division Bench decision of this Court passed in L.P.A. No. 501 of 2017 in which by order dated 14.11.2017, it has been held out that the respondents are required to give notice and opportunity of hearing before taking decision to terminate the petitioner.



4. In this regard, a counter affidavit has been filed on behalf of respondent no. 4 & 5 wherein the assertion made on behalf of petitioner has not been controverted.

5. Considering the aforesaid facts & circumstances, the order of termination dated 10.04.2023 passed by Respondent no. 6 /Executive Officer, Panchayat Samittee-cum-Member Secretary, Block Teacher Employment Unit, Shekhopursarai, Sheikhpura, as contained in Memo No. 395, is quashed. However quashing of the order of termination does not preclude the respondents from taking fresh decision in accordance with law after opportunity of hearing to the petitioner.

6. The respondents are directed to reinstate the petitioner. However, the petitioner shall not be entitled to any salary unless the issue of validity of appointment, after enquiry, is decided in favour of the petitioner. The payment of the petitioner shall abide by the final out come of the enquiry to be made by the respondents with regard to her appointment.

7. The writ petition is, thus, allowed.

(Prabhat Kumar Singh, J)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.11.2024
Transmission Date	N/A

