

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11895 of 2022

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Anita Kumari Wife of Chote Lal Yadav, D/o Jagdish Prasad Yadav, Resident of Village - Sukhasan, P.S. - Sattar Katiya, Aran, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Primary Education, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer, Saharsa.
4. The District Programme Officer, Establishment Saharsa.
5. The Secretary, Bihar School Examination Board, Budh Marg Patna.
6. The Examination Controller, Bihar School Examination Board Budh Marg, Patna.
7. The Block Education Officer, Kahra, Saharsa.
8. The Block Education Officer, Sonbarsa, Saharsa.
9. The Headmaster, Kanya High School, Raniganj, Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Md. Shakir Ahmad, Adv.
For the Respondent/s	:	Mr.Prabhakar Jha (Gp27)
		Mr.Hari Mohan Mishra, A.C. to G.P.-27
		Mr.Alok Kumar, Adv. For B.S.E.B.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 20-04-2024 Heard learned counsel for the petitioner and learned
counsels for the respondents.

2. The present writ application has been filed for the
following relief/s:-

“(i) For issuance of appropriate writ/writs, order/orders, direction/for quashing the memo no.1173 dated 18.07.2022 issued under the signature of respondent no.3 (The District Education Officer) whereby and whereunder



service of petitioner from the post of Assistant Teacher from Primary School, Safabad Kahra, in light of order contained in memo no.66 dated 13.01.2021 and as per decision taken in the meeting of the establishment committee and decision was also taken for recovery of salary paid to the petitioner.

(ii) For issuance of appropriate writ/writs, order/orders, direction/directions for quashing of memo 66 (annexure-11) dated 13.01.2021 issued under the signature of respondent no.2 and communicated to the petitioner vide memo no.164 dated 25.01.2021 under the signature of respondent no.3 whereby and where under claim of payment of salary has been rejected by holding that said claim is not fair and as per rule.

(iii) For issuance of appropriate writ/writs, order/orders, direction/directions to get the certificate and testimonial of petitioner verified from respondent no.6 of Bihar School Examination (herein referred as Board) and respondent no.9 with respect to certificate, mark sheets and testimonials of secondary School and since she is a regular student and appeared in Board exam and got her certificate through her school.

(iv) For issuance of appropriate writ/writs, order/orders, direction/directions commanding the respondent authorities to allow the petitioner to continue on the post of Assistant



Teacher at Middle School, Balha Garahiya, Kahra.

(v) For issuance of any other relief/reliefs for which petitioner is found entitled in the eye of law and in the facts and circumstances of the present case.”

3. Learned counsel for the petitioner submits that the name of petitioner also figured in the list of 34,540 elementary teachers approved by the Hon’ble Apex Court on the recommendation made by Hon’ble Mr. Justice S.K.Chattopadhyay (Retd.) Committee. Learned counsel submits that the Hon’ble Apex Court had in its judgment in SLP (C) No.26824 of 2012 has directed as follows:

“... We make it clear that none of the persons appointed out of the 34,540 vacancies should be disturbed in any way, but the question of filling up the balance vacancies may be taken into consideration, while disposing of the applications in question.”

4. In view of the aforementioned clarity given by the Hon’ble Apex Court in its judgment, the Division Bench of this Court has held in L.P.A. No.1254 of 2016 and other analogous matters that there could be no termination on the basis of a further verification. The views expressed by the Hon’ble Division Bench of this Court may be found in paragraph 16 as



under:-

“16. We are of the definite opinion that in the present case where all the party respondents were appointed as per the directions of the Hon’ble Supreme Court, under the supervision of Justice Chattopadhyay, cannot be terminated on grounds of qualifications not having been properly verified; unless otherwise permitted by the Hon’ble Supreme Court. The party respondents were appointed after their eligibility being settled by Justice Chattopadhyay, appointed by the Hon’ble Supreme Court, to oversee the selection and appointment of teachers to the vacant posts, identified as available, as per the undertaking made by the State before the Hon’ble Supreme Court. Though the verification of credentials and qualifications of the candidates were directed to be done, there could be no such verification at this late stage. As noticed by the learned Single Judge in the impugned judgment the State ought to have been more vigilant when the appointments were carried out.”

5. Learned counsel for the State and the Bihar School Examination Board have also not denied this fact that the petitioner was appointed in view of the order of the Apex Court.

6. In view of the Apex Court order and having regard to the submissions advanced herein above and the decision rendered by the Division Bench of this Court in L.P.A. No.1254 of 2016



and other analogous matters, I hereby set aside the impugned order of termination of the petitioner and direct the respondents to consider the case of the petitioner keeping in view the Bihar Litigation Policy, 2011 in the light of the judgments of this Court rendered in L.P.A. No.1254 of 2016 and other analogous matters, L.P.A. No.1309 of 2017 and L.P.A. No.1310 of 2017 and grant similar benefits to the petitioners as have been given to the other terminated teachers of the said list.

7. Let the entire exercise be completed within a period of two months from the date of receipt/production of a copy of this order.

8. This writ application is disposed of with the aforesaid observation.

(Anjani Kumar Sharan, J)

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