

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3604 of 2021

Sanjay Kumar Dubey son of Ram Kanhaiya Dubey @ Ram Kanaihaya Dubey
resident of Village and Post- Patar, Police Station- Raghunathpur, District-
Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Saran Division, Chapra.
4. The Director Primary Education, Education Department, Govt. of Bihar, Patna.
5. The District Magistrate, Siwan.
6. The District Education Officer, Siwan.
7. The District Programme Officer (Establishment), Siwan.
8. The District Panchayat Raj Officer, Siwan.
9. The Block Development Officer, Andar, Siwan.
10. The Block Education Officer, Andar, Siwan.
11. The Mukhiya, Gram Panchayat Raj, Patar, Andar, Siwan.
12. The Panchayat Secretary, Gram Panchayat Raj, Patar, Andar, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gyan Prakash, Advocate
		Ms. Parul Priya, Advocate
For the Respondent/s	:	Mr. S.C. Mishra, SC 16

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 11-11-2024 Indisputably, one Jayanti Tripathi was employed as a panchayat teacher in the UR category in the first phase of employment in the year 2006 in Gram Panchayat Patar and posted as a panchayat teacher in the primary school Sonakara, which was subsequently upgraded to Middle School, Sonakara. Subsequent to her appointment, it was ascertained that she was



employed on the basis of her Pandit qualification, obtained from Gurukul University Vrindawan, Mathura. From her marksheet, it is ascertained that she obtained 476 marks out of 700 marks, equivalent to 68%. During the inquiry, it was found that the marksheet of the Panchayati Examination filed by the said Jayanti Tripathi was forged and concocted. As the pre-condition of employment of the candidate was Intermediate Examination passed and the said Jayanti Tripathi was not employed on the basis of an Intermediate passed marksheet, her employment was held to be a nullity, and it was directed by the District Teacher Employment Authority in Appeal No. 75 of 2017 filed by the said Jayanti Tripathi, in which the petitioner was permitted to contest that the appellant had no right to be employed as a teacher and the petitioner may be appointed in her place subject to the satisfaction of his qualification. The said order dated 23rd January 2019, however, was not complied with by the respondents no. 11 and 12. In spite of the petitioner's repeated request and representation, the different authorities, starting from respondents no. 2 to 10.

2. Learned learned advocate, appearing on behalf of the respondents with all fairness, submits that it is respondents no. 11 and 12 who failed to comply with the above-mentioned



order passed by the appellate authority. It is also mentioned by him as well as the learned Advocate for the petitioner that Section 18(5) of the Bihar Panchayati Raj Act, 2006 provides as hereunder:

“(5) Without prejudice to the provisions under this Act, if, in opinion of the Commissioner having territorial jurisdiction over the Gram Panchayat, a Mukhiya or an Up-Mukhiya of Gram Panchayat absents himself without sufficient cause for more than three consecutive meetings or sittings or willfully omits or refuses to perform his duties and functions under this Act, or abuses the power vested in him or is found to be guilty of misconduct in the discharge of his duties (disobedience of order of an authority established by law or) becomes physically or mentally incapacitated for performing his duties or is absconding being an accused in a criminal case for more than six months, the (Government) may, after giving the Mukhiya or UpMukhiya a reasonable opportunity for explanation, by order, remove such Mukhiya or Up-Mukhiya, as the case may be, from office.

[Provided when a system of Lok Prahari, instituted under sub-section (5) of Section 152 comes into force by a valid notification of the State Government, the Government may only pass order of removal of such Mukhiya or Up-Mukhiya, as the case may be, in the light of inquiry and recommendation of Lok Prahari for the removal].

[The Mukhiya or Up-Mukhiya so removed on the charge of being found guilty of misuse of vested powers or of misconduct in the discharge of his



duties shall not be eligible for election to any Panchayat bodies till further five years from the date of such removal. The Mukhiya or Up-Mukhiya so removed on rest of the charges shall not be eligible for re-election as Mukhiya or Up-Mukhiya or Member of Gram Panchayat during the remaining term of office of such Gram Panchayat].

3. It is needless to say that the appellate authority passed the order in 2019. The respondents no. 11 and 12 are sitting tight over the matter for the last five years; though they are notified in the instant writ petition, they are not represented. It is submitted by the learned Advocate appearing on behalf of the petitioner that the said Jayanti Tripathi has been removed, but in her place, nobody has been appointed as yet, and the petitioner's claim still persists.

4. For the reasons stated above, the respondents no. 11 and 12 are directed to appoint the petitioner, subject to the condition that the petitioner must comply with all the requirements necessary for the post of a teacher of a middle school within one month from the date of communication of this order.

5. Since the respondent no. 11 has willfully violated the provisions of Section 18(5) of the Bihar Panchayati Raj Act, 2006, the respondent no. 1, Government of Bihar, through the



Principal Secretary, Panchayati Raj Department, Patna, is directed to take steps for his removal forthwith after giving him a reasonable opportunity of submission of explanation.

6. The instant writ petition is accordingly disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

U			
---	--	--	--

