

Bibha Rani, Wife of Sri Mukh Lal Kamat Resident of Village-Shilanath
Mandir P.S.-Jai Nagar, District-Madhubani.

Versus

- Respondent/s

For the Petitioner/s	:	Mr. Gagan Dev Yadav Mr. Ravi Prakash Mr. Vinod Kumar Mr. Udeshya Kumar Yadav
For the Respondent/s	:	Mr. Standing Counsel (28)

2 25-11-2024 1. Heard learned counsel for the petitioner and
learned AC to SC-28 for the State.

2. The learned counsel for the petitioner submits
that petitioner was appointed as Siksha Mitra on 27.05.2005
thereafter with effect from 01.07.2006, he became a
Panchayat Teacher. It is submitted that while petitioner was



discharging her duties to the satisfaction of all concerned, when letter no.23 dated 30.01.2009 came to be issued by the Block Education Extension Officer Jai Nagar declaring the appointment of the petitioner illegal and thereafter, the District Superintendent of Education- cum- District Programme Officer, Madhubani issued letter no.675 dated 07.03.2009 (Annexure-2) by which he directed the Panchayat Secretary and the Mukhiya, Gram Panchayat Raj Dullipatti, Jai Nagar, Madhubani to ensure that petitioner does not mark her attendance in her school in view of letter no.23 dated 30.01.2009 issued by the Block Education Extension Officer. Further, the Panchayat Secretary and the Mukhiya were directed to institute an FIR against the petitioner and also to recover the salary paid to her. It is submitted that the petitioner accordingly filed a case before the District Appellate Authority challenging the letter dated 30.01.2009 and the letter dated 07.03.2009 issued by the Block Education Extension Officer and the District Superintendent of Education-cum- District Programme Officer before the District Appellate Authority. The said case was dismissed by the District Appellate Authority by



an order dated 11.07.2012 against which the petitioner filed CWJC No.17869 of 2012. It is submitted that CWJC No.17869 of 2012 was taken up on 25.04.2014 and the same was allowed and the order dated 11.07.2012 passed by the District Appellate Authority was set aside and the matter was remanded back to the Appellate Authority to pass a fresh order in accordance with law within six months from the date of receipt of the order. It is submitted that thereafter, the District Appellate Authority by its order dated 20.09.2016 in Case No.52/05/2009 directed the petitioner to be reinstated as Panchayat Teacher, however, without arrear salary on the principles of no work no pay.

3. The learned counsel for the petitioner submits that the salary of the petitioner for the period of 01.10.2008 to 07.06.2017 has not been paid. It is further submitted that the services of the petitioner was declared illegal by the Block Education Extension Officer by his letter dated 30.01.2009 without seeking any explanation from the petitioner. Subsequently, the District Superintendent of Education-cum- D.P.O. issued letter dated 07.03.2009 directing the Pachayat Secretary and the Mukhiya to



institute an FIR and also to recover the paid salary from the petitioner on the ground that he had obtained her appointment as Siksha Mitra based on forged and fabricated certificate.

4. It is submitted that the entire action of the authorities was taken behind the back of the petitioner without seeking any explanation from her, nor any opportunity of hearing was given to her. It is next submitted that had an opportunity of hearing been given to her or petitioner would have been asked to explain her side of the case, in that event, the services of the petitioner would not have been declared illegal nor an FIR would have been instituted.

5. It is submitted that the petitioner in pursuance of the order of remand by this Court was reinstated in service by the District Appellate Authority, but then, the dues salary for the aforesaid period was directed not to be paid on the principles of no work no pay. It is next submitted that petitioner though was willing to discharge her duties, but then, she was restrained by the authorities from discharging her duties based on a frivolous plea that



she had obtained appointment based on a forged and fabricated certificate.

6. The Court prima facie concurs with the submissions made by the learned counsel appearing on behalf of the petitioner.

7. The learned counsel appearing on behalf of the State, at this stage, submits that petitioner has not challenged the order dated 20.09.2016 passed by the District Appellate Authority whereby her arrear salary has been denied rather the instant writ petition has been filed seeking a writ of mandamus commanding the authorities to pay the arrear salary of the petitioner for the period 01.10.2008 to 07.06.2017, but in absence of challenge of the order dated 20.09.2016, the said relief cannot be granted to the petitioner.

8. The learned State counsel next submits that petitioner has remedy of appeal before the State Appellate Authority against part of the order passed by the District Appellate Authority by which it has been directed not to pay the arrear salary of the petitioner.

9. At this stage, the learned counsel appearing on



behalf of the petitioner seeks permission to withdraw the writ application with liberty to move before the State Appellate Authority for seeking the relief claimed in the instant writ application in accordance with Law.

10. Permission is accorded.

11. Accordingly, the writ application is dismissed as withdrawn with the liberty aforesaid.

12. It is made clear that if any issue of limitation arises, the learned State Appellate Authority shall keep in mind that the petitioner was pursuing her remedies before this Court

(Satyavrat Verma, J)

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