

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2750 of 2020

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Asha Kumari Wife of Sudhir Kumar, Resident of Vilage-Bahadurpur,
Jharkhuriya, P.S.-Zero Mile, District-Bhagalpur, Bihar-813210.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secreary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Education Officer, Banka.
5. The District Programme Officer (Establishment), Office of the District Education officer, Banka.
6. The Panchayat Niyojan Ekai through its Secretary, Gram Panchayat Raj Harehandi-Amhara, Block-Rajaun, District-Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumar Kaushik, Adv.
For the State : Mr. Madhukar Mishra, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 07-05-2024

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

2. By filing this writ application, the petitioner prays for the following reliefs:

1) For issuance of an order, direction or writ of certiorari for quashing and setting aside the order dated 28.06.2019 passed by the learned State Appellate Authority, Education Department, Bihar in Appeal (Case No.): Appeal/528/2018 whereby and whereunder the order dated 08.06.2018 passed by the District Teachers' Employment Appellate Authority, Banka in Suit No. 09 of 2018 filed by the writ petitioner questioning her removal from employment as Panchayat



Teacher, has been set aside and the appeal filed by the respondent no.6 has been allowed.

II) For issuance of an order, direction or a writ of certiorari for quashing the order dated 23.09.2019 passed by the State Appellate Authority, Education Department, Bihar in Appeal (Case No.): Application/32/2019 whereby and whereunder the review application filed by the petitioner against the order dated 28.06.2019 passed in Appeal No. 528/2018 has been dismissed.

III) For issuance of an order, direction or a writ of mandamus for directing the respondent Authorities to reinstate the petitioner on the post of Panchayat Teacher in Primary School, Amhara, Harijan Tola, Block Rajaun, District-Banka with all consequential benefits including the arrears of salary for the period during which the petitioner has been kept out of employment due to operation of illegal impugned order.

IV) For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to make payment of salary to the petitioner for the period from August, 2018 to the date of dismissal during which period, her salary was stopped without any order passed by competent authority in this regard.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Panchayat Teacher in 2010 in Nav Primary School, Amhara, Harijan Tola, Block Rajaun, Banka as per the rules and norms of Block/Panchayat Teacher



Employment Rules, 2008. The petitioner submitted her joining on 06.01.2011 and started imparting education.

4. Learned counsel further submits that on a fine day, the petitioner was served a letter bearing letter no. 03 dated 19.01.2018 issued by the Panchayat Secretary Amhara Harchandi Block Rajoun by which the service of the petitioner was terminated with effect from 19.01.2018 on the ground that the Institute Nav Bharat Shiksha Parishad, Rourkela, Odisha, from where the petitioner had completed her basic Teachers Education Programme, is not recognized by the Government of Bihar. Thereafter, the petitioner assailed the order of termination by filing an appeal before the District Education Appellate Tribunal, Banka giving rise to Suit No. 09/2018, which was allowed vide order dated contained in Memo No. 46 dated 08.06.2018 and the order of termination was set aside and the petitioner was directed to be reinstated in service. The respondent Authorities implemented the order of the District Education Appellate Tribunal dated 08.06.2018 and the petitioner was reinstated vide order contained in letter No. 05 dated 14.06.2018 and has been serving the school since then.

5. Learned counsel for the petitioner further submits that respondent no.6 preferred an appeal against the order passed in



Suit No. 09/18 before the learned State Appellate Authority and Appeal Case No. 528/18 was instituted, which was allowed vide order dated 28.06.2019 passed by the State Appellate Authority holding that the Teachers Training Degree held by the petitioner from Nav Bharat Shiksha Parishad, Rourkela, Odisha is non-approved/non-recognised by the N.C.T.E. and hence, the petitioner was ineligible to be appointed as Panchayat Teacher. The order dated 08.06.2018 passed by the learned District Authority Suit No. 09/18 was set aside. Thereafter, the petitioner filed a review application pursuant to which Appeal (Case Number)-Application/32/19 was instituted, but the said application for review was dismissed vide order dated 23.09.2019 as not maintainable.

6. It is further submitted that the order passed by the State Appellate Authority is in teeth of the judgment and order dated 08.07.2015 passed in L.P.A. No. 1347/14 by which it was held that it is evident that there is no definite stand of the Government or the appointing authority that Nav Bharat Shiksha Parishad, Odisha is not a recognized institution in the context of issuing certificates for the Intermediate post. Hence, unless an authoritative stand is taken in this behalf, it is not at all advisable to unsettle the appointments of the persons, who held such



certificates.

7. Learned counsel for the State submits that in L.P.A. No. 577 of 2018, a Division Bench of this Court held that any such plea for cancellation of such termination orders which was based on an invalid certificate could not be entertained as it would amount to going against the mandate of law. The petitioner was ineligible even to apply for appointment as he had a training certificate which was not recognized by the State of Bihar.

8. Having heard learned counsels for the parties and from perusal of record, it is evident that the petitioner had completed her Basic Teachers Education Programme in Session May, 2007 from the Institute Nav Bharat Shiksha Parishad, Rourkela, Odisha, which is not recognized by the Government of Bihar and in light of the Division Bench judgment passed in L.P.A. No. 577 of 2018, in my opinion, this writ application merits no consideration and is dismissed accordingly.

9. The writ application stands dismissed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2024
Transmission Date	NA

