

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22043 of 2018

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Kanchan Kumari Daughter of Batesh Nath Jha, Wife of Chandramoleshwar Jha Resident of Village-Bara, P.S.-Bihra, District-Saharsa

... .. Petitioner/s

Versus

1. The State Of Bihar through the 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, Supaul, District-Supaul.
5. The District Programme Officer Est., Supaul, District-Supaul
6. The Block Education Officer, Supaul, District-Supaul
7. The Block Development Officer, Supaul, District-Supaul
8. The Panchayat Secretary, Bauro, Block District-Supaul
9. The Mukhiya of the Gram Panchayat of Bauro, District-Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Adv. Mr. Dhandev Kumar, Adv. Mr. Atul Kumar, Adv.
For the Respondent/s	:	Mr. AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 21-01-2025 1. Heard learned counsel for the petitioner and learned
AC to AAG-15 for the State.

2. The learned counsel for the petitioner submits that initially the writ application was filed seeking quashing of memo no.1161 dated 17.09.2018 (Annexure-11) issued by the D.E.O., Supaul, addressed to the Block Development Officer-cum-Member Secretary of Block Education Employment Unit Bairo, whereby it was directed to terminate the services of the



petitioner in light the order passed in CWJC No.15459 of 2014 and to recover the salary given to the petitioner by instituting a case under the Public Demand Recovery Act.

3. It is further submitted that in pursuance of the letter dated 17.09.2018, issued by the D.E.O., Supaul, the services of the petitioner was terminated by memo no.20 dated 21.11.2018 issued by the Panchayat Secretary-cum-Member Secretary, Teachers Employment Unit Gram Panchayat, Bauro. It is further submitted that order dated 21.11.2018 has been challenged by way of filing I.A. No.01 of 2025. The I.A. No.01 of 2025 is allowed for consideration.

4. The learned counsel for the petitioner submits that petitioner was appointed as Panchayat Teacher on 21.04.2007 and thereafter was continuously discharging her duties, when an F.I.R. came to be instituted against her and others bearing Supaul P.S. Case No.508/2018 alleging therein that the petitioner at the time of seeking appointment had interpolated her marks in the marks sheet of Intermediate i.e. petitioner had obtained 61.66% but at the time of seeking appointment the certificate of Intermediate, which was submitted by her recorded her percentage as 68%. The learned counsel for the petitioner next submits that the aforesaid FIR was instituted in pursuance



of the order passed by this Court in CWJC No.15459 of 2014. It is next submitted that this Court in CWJC No.15459 of 2014 had passed an order giving amnesty to those teachers who had sought appointment based on forged and fabricated certificate to tender their resignation, the order recorded that in the event, if the teachers, who have sought appointment, based on forged and fabricated certificate does not give resignation within the amnesty period, in that event, Vigilance was directed to institute an FIR and investigate.

5. The learned counsel for the petitioner submits that merely because of an F.I.R. came to be instituted against her with the aforesaid allegations that in itself did not entitle the authorities to terminate the services of the petitioner without issuing any show-cause or seeking her explanation. It is next submitted that termination order of the petitioner was passed based on an inquiry conducted by the Vigilance behind her back without giving any opportunity to the petitioner to explain her side of the case. It is next submitted that no doubt this Court in CWJC No. 15459 of 2014 had given amnesty to teachers to resign voluntarily, who had sought appointment based on forged and fabricated certificate and if the teachers did not resign within the period of amnesty, in that event, the vigilance was



directed to hold an inquiry and institute an F.I.R. but then it is submitted that petitioner had not obtained her appointment as Panchayat Teacher based on forged and fabricated certificate, as such, in terms of the order passed in CWJC 15459 of 2014, the petitioner did not resign but then her services came to be terminated by the order impugned as annexed in I.A. No.01/2025, on the ground that vigilance has instituted an F.I.R. with the aforesaid allegation.

6. It is next submitted that allegations are in realm of allegation and the FIR still has to stand the scrutiny of a Court of competent criminal jurisdiction. It is further submitted that in the trial, if the prosecution is not able to prove its case, in that event, what will happen, as such, the authority before terminating the services of the petitioner ought to have issued a show-cause seeking her explanation and if the authorities were not satisfied with the explanation furnished by the petitioner, in that event, a departmental proceeding ought to have been initiated. The learned counsel fairly submits that rule of strict evidence does not apply in a departmental proceeding, as it is based on preponderance of probabilities, but then, even to prove that preponderance of probabilities exist for taking a decision, a proceeding is a must. It is next submitted that from perusal of



the order impugned, it would manifest that the same does not even remotely suggest that any show-cause was given to the petitioner before terminating her services rather based on the directions of the District Education Officer, the Employment Unit terminated the services of the petitioner on the ground that an FIR has been instituted against her.

7. The learned counsel appearing on behalf of the State is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that before terminating the service of the petitioner, no show-cause was issued to her seeking her explanation rather the services of the petitioner was terminated on the ground that an FIR has been instituted against her. The learned counsel for the State next submits that there is an allegation against the petitioner that she had interpolated her mark sheet of Intermediate.

8. The learned counsel appearing on behalf of the petitioner vehemently rebuts the said submission of the learned counsel appearing on behalf of the State that petitioner had interpolated her mark sheet of Intermediate and submits that had an opportunity been given to the petitioner to explain her side of the case before terminating her services, perhaps the FIR would not have been instituted as the petitioner would have been in a



position to satisfy the authorities, but then in absence of any opportunity of hearing, the services of the petitioner came to be terminated in complete breach of the principles of natural justice, as such, the order impugned cannot be countenanced. The learned counsel for the petitioner next submits that similarly situated person Lalan Kumar Paswan had approached this Court by filing CWJC No.15689 of 2019 and the same came to be allowed by an order dated 02.08.2019 on the ground that services of the petitioner was terminated in complete breach of the principles of natural justice i.e. without giving any notice or opportunity of hearing.

9. After hearing the learned counsel for the parties, the order contained in memo no. 1161 dated 17.09.2018 passed by the District Education Officer, Supaul and order contained in memo no.20 dated 21.11.2018 passed by Panchayat Secretary-cum- Member Secretary, Teachers Employment Unit, Gram Panchayat Bauro, whereby services of the petitioner has been terminated are hereby quashed and the authorities are directed to reinstate the petitioner back in service.

10. However, it is made clear that quashing of the order of termination will not preclude the respondent authorities from proceeding against the petitioner afresh in accordance with



law.

11. It is made clear that the petitioner shall not be entitled to any salary for the period she has not worked unless the issue of the validity of appointment of the petitioner, in accordance with law is not taken. The payment of salary of the petitioner shall abide by the final outcome of the inquiry to be made by the respondent authorities with regard to her appointment.

(Satyavrat Verma, J)

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