

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2314 of 2019

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Md. Ruknuddin Son of Late Md. Salahuddin Resident of village- Mahalpar,
P.O and Police Station- Biharsharif, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Secondary Education, Govt. of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Patna, Bihar.
3. The District Education Officer, Nalanda Bihar.
4. The Principal, Chakdin Plus 2 School, Chakdin, Police Station- Asthawan, District-Nalanda, Bihar.
5. The Secretary, Chakdin Plus 2 School, Chakdin, Police Station- Asthawan District -Nalanda, Bihar.
6. The Secretary, Chakdin Muslim Association, Kolkata.
7. The Managing Committee, Chakdin Plus 2 School, Chakdin, Asthawan, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Zeyaul Hoda, Advocate
For the Respondent/s	:	Mr. Madanjeet Kumar (Gp20)

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

10 15-09-2025 Learned counsel for the petitioner and learned counsel for the State are present whereas no representation on behalf of the respondent Nos.4, 5 and 6 is noticed today and even on the last occasion despite vakalatnama and counter affidavit having been filed in this case. As such, on the basis of averments made in the counter affidavit filed on their behalf, this writ petition is being adjudicated on the pleadings made by the parties.



2. The writ petition has been filed for the following reliefs :-

(i) For issuance of writ in the nature of mandamus commanding the respondents to make payment of the petitioner's salary for the period of his suspension and termination i.e. between 15.01.2014 to 26.10.2016 and annual increment accruing for the aforesaid period whereafter the petitioner was reinstated with effect from 27.10.2016. Prayer is also to make payment of interest @ 18% w.e.f. from 15.01.2014 to 26.10.2016.

(ii) For any other relief/ reliefs as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that this petitioner had earlier challenged his termination made by the Managing Committee, in which the violation of principles of natural justice was alleged before the Hon'ble Court and in view of the amendment of Rules of 2011 and the petitioner having had the right to move the State Government on the decision of Managing Committee whereby liberty was granted by the Co-ordinate Bench and the petitioner is said to have challenged his removal from the post of Assistant Teacher, the authority of the State Government, Department of Education, who was directed to grant opportunity of hearing and take a final decision by giving proper hearing to this petitioner.



4. Pursuant to the order passed by this Court, the authority under the State Government being Director, Secondary Education, examined the matter and after giving proper hearing to the Management of the Institutions as well as to this petitioner, found that there has been gross violation and ultimately, finding that the petitioner was not given proper hearing and further, the evidences which were actually required to be fetched by carrying out fact finding enquiry for the purpose of proving the guilt of the petitioner, was not carried out in its true perspective and therefore, the decision of Managing Committee to remove him from the post of Assistant Teacher was set aside. An order to this effect was passed by Director, Secondary Education, which is contained in Memo No.479 dated 30.06.2015.

5. Learned counsel for the petitioner next submits that during the pendency of the instant writ application, the Managing Committee is said to have taken a decision with regard to entitlement of salary pursuant to termination order having been set aside by the Director, Secondary Education and the Managing Committee, is said to have taken a decision, as contained in Meeting No.03/2018 dated 09.09.2018, whereby the claim of the petitioner has been rejected. Learned counsel



for the petitioner, in order to challenge the order dated 09.09.2018, has filed an Interlocutory Application being I.A. No.01 of 2025 which may be allowed.

6. This Court upon having decided to seek response from respondent Nos.4 to 6, found that there is no representation by the counsel so authorized for the last two dates and the order impugned, which the petitioner proposes to challenge by way of interlocutory application, has already been appended by the respondent Nos.4, 5 and 6 in their counter affidavit to deny the claim of the petitioner, which from the pleadings as well as from the order impugned, does not indicate that before passing the said order dated 09.09.2018, principles of natural justice has ever been followed.

7. In order to challenge the said decision, the necessary formalities of filing interlocutory application in terms of Patna High Court rules, has already been carried out and the response which would be required from the concerned respondents, have already been dealt with in their counter affidavit in various paragraphs, but it no where spells that petitioner was ever been heard before passing the order dated 09.09.2018.

8. Be that as it may, the said Interlocutory Application No.01 of 2025 for the reasons indicated aforesaid, is allowed



and the impugned relief is now being considered along with the main relief to adjudicate the same on merits.

9. Learned counsel for the petitioner next submits that *vide* Office order, as contained in Memo No.654 dated 10.07.2016, issued by Director, Secondary Education, the petitioner was reinstated back in service. It has next been submitted that the claim of the petitioner to grant full salary for the period, the petitioner remained under suspension from 15.01.2014 to 20.06.2016 with annual increment, has not been addressed properly, the petitioner was again forced to knock the door of the Hon'ble Court and the Co-ordinate Bench of this Court vide order dated 05.12.2018 passed in C.W.J.C. No.9643 of 2018, directed the petitioner to file representation in respect of the grievances and the petitioner filed a representation pursuant to aforesaid order of the Hon'ble High Court. Thereafter, the order of the Managing Committee came to be recorded on 09.09.2018, after retirement of the petitioner on 01.04.2018.

10. From the contents of the counter affidavit filed on behalf of respondent Nos.4, 5 and 6. It is quite evident that no procedure was followed before passing the order impugned. The relevant extract of the decision of Managing Committee is being reproduced hereunder:-

5. That a Managing Committee of School had already



taken decision vide resolution No- 01/2017 dated 02/04/2017 regarding payment of suspension period and termination period i.e from 10-06-2014 to 27-10-2016 that the petitioner will be not entitle for anything except subsistence allowance for suspension period and so far as termination period from 10-06-2014 to 27-10-2016 is concerned the Managing Committee has decided to grant leave without pay and the service of the aforesaid period has been regularized in accordance with law and the copy of resolution already been sent to the authority concerned and same has also been communicated the petitioner but the petitioner has not challenged the resolution No-1/2017 dated 02/04/2017 in the itself writ application.

11. From the contents of the resolution No.03/2018 dated 09.09.2018 as well as the statements made in the counter affidavit, which nowhere speaks that while passing such order whereby the claim of the petitioner with regard to salary for the period 10.06.2014 to 27.10.2016, has been rejected, the petitioner was ever called in question. The petitioner has again not been heard in similar fashion, where the petitioner's termination order was passed by the Managing Committee, which was interfered by Director, Secondary Education on remand by the Hon'ble High Court to the appropriate authority, in terms of amendment under Rule 2011 and pursuant to the directions issued and the requisite exercise carried out in terms of the Rule, the said termination order was set aside by Director, Secondary Education.



12. Since, the impugned decision dated 09.09.2018 assailed through interlocutory application has been allowed and forms part of the main relief portion is being examined and considered. The decision impugned, evidently shows that the petitioner was not given opportunity of hearing and the valuable rights of the petitioner has been adjudicated by the Managing Committee unilaterally and behind his back as such, the decision of the Committee dated 09.09.2018 vitiated in law and is accordingly set aside.

13. Now, since the petitioner has already retired from service, therefore, no further liberty is restored to the authorities to undertake fresh exercise after nine years. Hence, this Court directs the respondents concerned to pay the entire balance salary of the period from 10.06.2014 to 27.10.2016 during which the petitioner having remained under suspension with annual applicable increment, for which he is otherwise eligible, on reinstatement, within a period of two months from the date of production of copy of the order of this case.

14. Accordingly, the writ petition stands allowed.

(Ajit Kumar, J)

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