

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21011 of 2018

Narayan Mandal Son of Shiv Nandan Mandal Resident of Village-
Piprakhurd,P.S.Distt.-Supaul

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary,Principal Secretry,EducationDepartment,Govt.of Bihar,Patna
3. The Director,Primary Education,Govt. of Bihar,Patna
4. The District Education Officer,Supaul,Distt.-Supaul
5. The District Programme Officer Establishment , Supaul,Distt.-Supaul
6. The Block Education Officer,Supaul,Distt.-Supaul
7. The Panchayat Secretary, Piprakhurd, BlockDistt.-Supaul
8. The Mukhiya of the Panchayat of Piprakhurd,Distt.-Supaul
9. The Block Development officer,Supaul,Distt.-Supaul

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra Mr. Atul Kumar Mr. Dhandev Kumar Mr. Anil Kumar Sinha
For the Respondent/s	:	Mr. Madhaw Prasad Yadav – GP-23 Mr. Sanjay Kumar- AC to GP-23

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

20-01-2025

1. Heard learned counsel for the petitioner and learned AC to GP-23 for the State.

2. The learned counsel for the petitioner submits that petitioner was appointed as Panchayat Siksha Mitra in Primary School, Chak Dumaria for 11 months by a letter dated 28.05.2005 issued under the joint signature of Mukhiya and Pandchayat Secretary, Gram Panchayat, Pipra Khurd,



thereafter the services of the petitioner as Siksha Mitra was extended. It is next submitted that on 01.07.2006, Bihar Panchayat Primary Teachers (Employment and service condition) Rule, 2006 was promulgated and by a virtue of Rule-20(3), services of Siksha Mitra was absorbed as Panchayat Teacher with effect from 01.07.2006, as such, the petitioner started working as a Pachayat Teacher and subsequently became a Block Teacher.

3. The learned counsel for the petitioner next submits that a writ application being CWJC No.15459 of 2014 came to be instituted before this Court wherein this Court in sum and substance passed an order giving amnesty to those teachers, who sought appointment based on forged and fabricated certificates to tender their resignation. The order also recorded that in the event, if the teacher, who has 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. The learned counsel next submits that all of a sudden, memo no.1165 dated 17.09.2018 was issued under the signature of District Education Officer, Supaul (Annexure-9) addressed to the Block Development Officer-cum- Member Secretary of Block



Education Employment Unit, Supaul whereby it was directed to terminate the services of the petitioner in light of 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. The learned counsel next submits that in pursuance of the letter dated 17.09.2018, the services of the petitioner was terminated by memo no.24 dated 07.12.2018 issued by the Panchayat Secretary-cum-Member Secretary, Teachers Employment Unit Gram Panchayat, Pipra Khurd. It is submitted that order dated 07.12.2018 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 merely because an FIR came to be instituted against the petitioner with an allegation that the percentage required for being appointed as Siksha Mitra was 45 percent in Intermediate, but then, petitioner only had 38.17 per cent of marks that in itself did not entitle the authorities to terminate the services of the petitioner without issuing any show-cause or seeking his explanation. It is further submitted that termination order of the petitioner was also passed based on an inquiry conducted by the Vigilance behind his back without giving any



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

5. The learned counsel for the petitioner submits 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 his case, in that case what happens, as such, the authority before terminating the services of the petitioner ought to have issued a show-cause seeking his 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 his 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 him.

6. 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 him seeking his explanation rather the service of the petitioner was terminated on the ground that an FIR has been instituted against him, it is next submitted that even petitioner did not had the qualifying marks for being appointed as Siksha Mitra.

7. 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 did not have the requisite marks required for appointment as Siksha Mitra and submits that had an opportunity been given to the petitioner to explain his side of the case, perhaps the FIR would not have been instituted and the petitioner would have been in a position to satisfy the authorities, but then, in absence of any opportunity 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 service of the petitioner was terminated in complete breach of the principles of natural justice i.e. without giving any notice or opportunity of hearing.

8. After hearing the learned counsel for the parties, the order impugned dated 17.09.2018 (Annexure-9) passed by the District Education Officer, Supaul and order contained in memo no.24 dated 07.12.2018 passed by Panchayat Secretary-cum- Member Secretary, Teachers Employment Unit,



Gram Panchayat Pipra Khurd, Block Supaul whereby service of the petitioner has been terminated is hereby quashed and the authorities are directed to reinstate the petitioner back in service.

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

(Satyavrat Verma, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	20.01.2025
Transmission Date	20.01.2025

