

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.158 of 2022

In
Civil Writ Jurisdiction Case No.6855 of 2021

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Vijay Kunwar @ Vijay Kumari @ Vijaya Kumari Wife of Late Vipin Tiwari
Resident of Village- Kateya (Pashchim Tola), P.O.- Keshari Mathiya, P.S.-
Janta Bazar, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
3. The Principal Secretary, Department of Personnel and Administrative Reforms, now known as Department of General Administration, Government of Bihar, Old Secretariat, Patna.
4. The Director, Secondary Education, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
5. The Director, Mass Education (Jan Shiksha) -cum-Additional Secretary, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
6. The Director (Administration)-cum-Additional Secretary, Department of Human Resources Development (Department of Education), Government of Bihar, New Secretariat, Patna.
7. The Regional Deputy Director of Education, Tirhut Division, District- Muzaffarpur.
8. The District Magistrate/Collector, Muzaffarpur, District- Muzaffarpur.
9. The District Education Officer, Muzaffarpur, District- Muzaffarpur.
10. The District Mass Education (Jan Shiksha) Officer, Muzaffarpur, District- Muzaffarpur.
11. The District Programme Officer (Establishment), Muzaffarpur, District- Muzaffarpur.
12. The District Programme Officer (Literacy), Muzaffarpur, District- Muzaffarpur.
13. The District Programme Officer (Literacy), Saran, District- Saran at Chapra.
14. The District Programme Officer (Planning and Account), Muzaffarpur, District- Muzaffarpur.
15. The District Treasury Officer, Muzaffarpur, District- Muzaffarpur.
16. The Principal, Shri Gaurishankar Government High School, Badadaud, Block- Paru, District- Muzaffarpur.

... .. Opposite Party/s

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Appearance :



For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
: Mr. Awnish Kumar, Advocate
For the Opposite Party/s : Smt. Shilpa Singh (GA-12)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 03-07-2025

Heard the parties.

2. The present petition has been preferred for the grant of following relief(s):

“for review of the order dated 31.03.2022 passed by His Lordship Hon'ble Mr. Justice Sanjeev Prakash Sharma "J" in C.W.J.C. No.6855 of 2021 whereby and where under His Lordship was pleased to dispose of the writ petition in terms of the judgment and order dated 23.02.2022 passed by His Lordship in C.W.J.C. No.5489 of 2020 (Suresh Ram -Versus- The State of Bihar and others) and other connected matters and the judgment dated 07.03.2022 passed by His Lordship in C.W.J.C. No.34 of 2022 (Minakshi @ Sushri Minakshi and others Versus- The State of Bihar and others).”

3. The writ petition was preferred for the grant of following relief(s):

(i) For issuance of a writ in the nature of



certiorari for quashing and setting aside the order issued vide Memo No. 1707 dated 6.11.2020 (Annexure-8 of the writ application) by the Director, Mass Education (Jan Shiksha)-cum-Additional Secretary, Department of Human Resources Development (Department of Education), Bihar, Patna (respondent no.5), whereby and where under the petitioner has been awarded punishment of dismissal from service with immediate effect and also directed to make recovery of paid salary in one time which has been paid to the petitioner during her service period, without initiating departmental proceeding against the petitioner and without providing opportunity of hearing to the petitioner.

(ii) For further quashing and setting aside the official order issued vide Memo No. 2115 dated 9.12.2020 (Annexure-10 of the writ application) issued by the District Education Officer, Muzaffarpur (respondent nos.9), whereby and where under in view of the order issued vide



Memo No. 1707 dated 6.11.2020 (Annexure-8 of the writ application) the petitioner has been dismissed from service with immediate effect and also directed to make recovery of paid salary in one time within one month which has been paid to the petitioner during her service period, without initiating departmental proceeding against the petitioner and without providing opportunity of hearing to the petitioner.

(iii) Further for issuance of writ in the nature of mandamus directing /commanding the respondents' especially respondent nos. 5, 9 and 11 to reinstate the petitioner in her service along with all benefits with effect from 6.11.2020.

(iv) Further for directing/commanding the respondents to grant stay with immediate effect on the orders issued vides Memo No.1707 dated 6.11.2020 and Memo No.2115 dated 9.12.2020 (Annexure-8 & 10 of the writ application) during pending/disposal of the present writ application.

(v) Further for direction to the authorities/respondents concerned to punish the



erring Officials and pay compensation to the petitioner for mental agony, physical and financial harassment of the petitioner and her family members who suffers a lot due to illegal dismissal from service of the petitioner.

(vi) For any other relief/reliefs for which the petitioner is entitled to in accordance with law.

4. The matter was taken up by the learned Writ Court on 31.03.2022 and the following order was passed:

Heard the parties.

The case is being taken up from defect side.

Learned counsel for the petitioner is directed to submit the original petition along with attested affidavits and also remove all the defects pointed out by the Registry within two weeks from today.

Considering it that this matter is covered by the judgment dated 23.02.2022 passed in C.W.J.C. No. 5489 of 2020 (Suresh Ram Vrs. The State of Bihar & Ors.) and connected matters reported in 2022 (2) B.L.J., 381 and the judgment dated 07.03.2022 passed in C.W.J.C. No. 34 of 2022 (Minakshi @ Sushre Minakshi &



Anr. Vrs. The State of Bihar & Ors.), this petition is disposed of with the above terms.

If an appeal is preferred before the District Appellate Authority/State Appellate Authority the same shall be taken-up at the earliest and preferably decided within a period of three months.

5. Aggrieved, the present review petition.

6. Learned counsel for the petitioner submits that the writ petition was filed against his dismissal from service but erroneously, the matter was heard alongwith batch cases and sent to Appellate Authority for adjudication.

7. In support of the aforesaid contention that the writ petition be revived, the Division Bench judgment dated 18.01.2023 in LPA No. 255 of 2022 (Dhananjay Singh vs. State of Bihar and Ors.) and analogues case have been provided to the Court.

8. The relevant part of the aforesaid LPA No. 255 of 2022 (Dhananjay Singh vs. State of Bihar and Ors.) read as follows:

“Learned counsel for the appellants submitted that the decided case in the case of Suresh Ram



is in respect of such of those persons who were appointed as Panchayat Teacher in the respective Panchayat. On the other hand, appellants' case are that they were appointed as Teacher in the Education Department of State of Bihar and they were recruited through the BPSC and they are governed by a separate rule of recruitment. Therefore, the cited decision by the learned Single Judge is not applicable to the case of the appellants.

The aforementioned statement has not been disputed by the learned State Counsel.

In the light of these facts and circumstances, order of the learned Single Judge dated 22.03.2022 passed in C.W.J.C. No. 2804 of 2022 is set aside and all the C.W.J.C. petitions are remanded to the learned Single Judge.”

9. A perusal of the aforesaid order dated 18.01.2023 by the Division Bench shows that taking note of the fact that the subject matter was different, the order of the learned Single Judge dated 22.03.2022 in CWJC No. 2804 of 2022 was set aside and all the writ petitions were remanded to the learned



Single Judge.

10. Learned State counsel has also gone through the Division Bench judgment and concurs to the submission put forward by the learned counsel for the petitioner that the subject matter of this case is entirely different and in that background, erroneously, the matter was referred to the appellate authority.

11. In that background, the Civil Review is allowed, the order passed in CWJC No. 6855 of 2021 on 31.03.2022 is recalled with a direction to resurrect CWJC No. 6855 of 2021 and present it before an assigned Bench.

12. Office to do the needful.

13. Accordingly, the Civil Review stands disposed of.

(Rajiv Roy, J)

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