

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15709 of 2016

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Lallan Kishore Arohi Son of Sri Ram Chandra Singh Resident of Mohalla -
Janakpuri P.S.S. School, P.O. - Buniyadganj, District - Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Secondary Education, Education Department, New Secretariat, Patna.
3. The Regional Deputy Director, Gaya Secondary Education Department, Gaya.
4. The District Education Officer, Gaya.
5. The Director, Secondary Education Department, Patna, State of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Sr. Adv. Mr. Shailesh Kumar Singh, Adv.
For the Respondent/s	:	Mr. Prabhakar Jha, GP-27 Mr. Mukun Mohan Jha, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

9 20-11-2025 Heard learned senior counsel appearing on behalf

of the petitioner and learned counsel appearing on behalf of

the respondent-State.

2. The petitioner, in the writ application, has

prayed for grant of following reliefs;

“(i) For quashing the order dated 25.08.2015 contained in memo no. 258 issued by Director, Secondary Education Department, Patna by which service of the petitioner has been terminated by initiating denovo-enquiry and D.E.O. Gaya has been directed to lodge the F.I.R. against the petitioner despite having no legal and factual ground.

(ii) For a direction to the respondents to



reinstate to petitioner in service with all consequential benefits with salary from the date it has been stopped.

(iii) To pass stricture against the respondents for initiating fresh departmental proceeding against the petitioner for same charge which has already been ended and taken final rest in view of the order passed by Hon'ble Mr. Justice Dr. Ravi Ranjan in CWJC No. 13421/2009.

(iv) To pass an order of awarding heavy cost to the respondents and punish them for harassing to the petitioner in mala fide action.

(v) To pass any other order/orders on the facts and circumstances of the case stated hereinafter."

3. It is submitted by learned senior counsel appearing for the petitioner that in pursuance of an advertisement No. 01 of 1983, published by Vidyalaya Seva Board, Patna, the petitioner applied for his appointment on the post of Assistant Teacher in High School and thereafter, an admit card was issued to the petitioner for appearing in interview on 08.09.1991 vide Memo No. 2780 dated 25.07.1991. In pursuance of interview letter, the petitioner appeared in interview along with other candidates and thereafter his candidature was recommended for appointment as Assistant Teacher, as such, the petitioner was appointed on 04.08.1992 as Assistant Teacher. It is further submitted that vide letter No. 141 dated 16.01.2022, the D.E.O, Gaya wrote a letter to the Headmaster of the



concerned school to stop the payment of salary to the petitioner which was challenged by the petitioner before this Court in C.W.J.C. No. 14281 of 2002. This Court after hearing the parties, allowed C.W.J.C. No. 14281 of 2002 on 02.03.2007 with a direction to the Director, Secondary Education, Bihar Patna to decide the representation of the petitioner in light of the observation made in the C.W.J.C. No. 4844 of 2003 dated 15.07.2003, which was challenged in L.P.A. No. 1154 of 2003 and also came to be dismissed on 07.05.2004.

3.1. It is further submitted that the department without complying the order passed in L.P. A No. 1154 of 2003 in its true sense and spirit, terminated the services of the petitioner along with others vide Memo No. 734 and 936 dated 12.11.2003 and 07.05.2004, respectively, and when the petitioner was posted at Makaundpur High School, Gaya, a criminal case being Khijarsarai P.S. Case No. 95 of 2003 for the same set of allegations was also filed by the department against the petitioner. However, in the criminal case, after investigation, police submitted the final form against the petitioner and found the appointment of the petitioner valid, which was accepted by criminal Court i.e. the Chief Judicial



Magistrate, Gaya vide his order dated 06.11.2004. It is further submitted that for the first time, the petitioner challenged the order dated 24.12.2002 contained in letter No. 4716 issued by the Director, Secondary Education, Bihar Patna, whereby decision was taken to lodge a First Information Report against the headmaster as well as the concerned Teachers who had allegedly obtained their appointment on forged documents and to initiate a departmental proceeding against the Headmaster of the School and not to pay the salary to the individual teachers, including the petitioner in C.W.J.C. No. 8721 of 2003. The said writ application was disposed of vide order dated 02.03.2007. The operative portion of the order is quoted herein-below;

“In this view of the matter, the cancellation of the appointment of the petitioner as per Memo No. 734 dated 12.11.2003 is hereby quashed. It is, however, made clear that the department will be at liberty to proceed afresh against the petitioner and pass appropriate order after following the principles of natural justice.”

3.2. In pursuance of the order of the High Court dated 02.03.2007 passed in C.W.J.C. No. 8721 of 2003 and in C.W.J.C. No. 14281 of 2002, the petitioner represented his grievance through his advocate and submitted his



application before the Director, Secondary Education, Patna, annexing the entire documents on 24.04.2007. It is further submitted that the department against the order passed in L.P.A. No. 1154 of 2003 dated 07.05.2004 filed SLP No. CC 11551 of 2004 before the Hon'ble Apex Court and after hearing the parties, Hon'ble Apex Court was pleased to dismiss the said SLP on 17.12.2004 with an observation that the appellant to take appropriate action in the light of outcome of criminal prosecution, if any launched against the teacher. Thereafter, it is submitted that the Director, Secondary Education, Bihar, Patna passed the order dated 27.06.2007 contained in memo No. 436, by which the claim of the petitioner with regard to payment of salary as well as reinstatement in service was refused without considering the submissions of the petitioner, contrary to the direction of the High Court and Hon'ble Apex Court passed in C.W.J.C. No. 14281 of 2002, C.W.J.C. No. 8721 of 2003 and SLP No. CC 11551 of 2004, respectively.

3.3. It is further brought to the knowledge of this Court that in a similar matter in C.W.J.C. No. 15872 of 2007 by disposing the writ application, this Court directed the department to proceed a fresh in accordance with law, which



would ultimately abide by the terms of the order of the Hon'ble Supreme Court passed in SLP No. CC 11551 of 2004. Further, the petitioner challenged the validity of the order dated 27.06.2007 i.e. the termination order issued by the Director, Secondary Education, Bihar, Patna vide C.W.J.C. No. 13421 of 2009 before this Court and this Court, after hearing all the parties, at length, was pleased to allow the writ application setting aside the termination order dated 27.06.2007, contained in Memo No. 436 dated 11.10.2012. The operative portion of the order is quoted herein-below;

“Accordingly the impugned orders as contained in Annexures 11 and 12 are quashed and set aside.

The respondent authorities are directed to reinstate the petitioner within two weeks from the date of receipt/production of a certified copy of this order. It is also held that in view of the order dated 2.3.2007 passed in C.W.J.C No. 8721 of 2003, the petitioner was required to be reinstated and then any proceeding could have been drawn against him contemplating his termination, which admittedly was not done by the authorities. The petitioner would be entitled for arrears of salary to be calculated from the date it was stopped as from the aforesaid discussion and the earlier orders passed, it appears that the petitioner was ousted improperly by the office specially when the Apex Court in State of Bihar & Ors. Vs. Birendra Kumar Singh (Annexure-7) though having been passed with respect to different persons but similarly situated and case arising out of the same transaction, had



granted liberty to the petitioner. State of Bihar to take appropriate action in the light of the out-come of the criminal prosecution, if any, launched against the employee. Same principle should have been applied in the case of the petitioner also.

Accordingly this writ application stands allowed. ”

4. Learned senior counsel appearing for the petitioner pointed out that from the above order dated 11.10.2012 passed in C.W.J.C. No. 13421 of 2009, it is apparent that no expressed liberty was granted to the department to proceed afresh by holding a *de novo* inquiry. Learned senior counsel further pointed out that the order dated 11.10.2012 passed in C.W.J.C. No. 13421 of 2009 was challenged by the department by filing L.P.A. No. 540 of 2013 which was dismissed as withdrawn vide order dated 01.11.2013. The entire order dated 01.11.2023 passed in L.P.A. No. 540 of 2013 is quoted herein-below;

“After some argument, in view of the observations contained in the penultimate lines at page 10/11 of the order under Appeal, leave is sought to withdraw the Appeal reserving the right of the Appellants to proceed further in accordance with law.

The Appeal is dismissed as withdrawn.”

5. Learned senior counsel for the petitioner further points out that from a careful perusal of the order dated 01.11.2013 passed in L.P.A. No. 540 of 2013, it would be



clear that although the State of Bihar/appellant had made a submission to withdraw the appeal, reserving the right to proceed further in accordance with law, the said leave was not granted and the appeal was merely dismissed as withdrawn. He, therefore, emphasized the fact that neither in the writ Court's order dated 11.10.2012 nor in the L.P.A. Court's order dated 01.11.2013, any express liberty was granted to the department to hold any *de novo* inquiry on the same set of charges. Based on the aforesaid submissions made by the learned senior appearing on behalf of the petitioner, it is submitted that the second termination order, which is under challenge in the present writ application, based on a *de novo* inquiry and which also contains a direction to lodge an F.I.R., could not have been legally passed when the entire matter had attained finality by order dated 11.10.2012 passed in C.W.J.C. No.13421 of 2009 and order dated 01.11.2013 in L.P.A. No. 540 of 2013 (Annexure-12). He, therefore, submitted that the second termination order, which is under challenge in the present writ application, is completely illegal and deserves to be set aside, as it is based on a proceeding for which, no liberty was granted either by the writ Court or by the LPA Court.



6. Learned counsel appearing on behalf of the respondent-State submitted that although, no express liberty was granted to the department to hold any *de novo inquiry*, the order dated 01.11.2013 passed in L.P.A. No. 540 of 2013 could be interpreted as having granted liberty to the department to proceed in accordance with law.

7. Having considered the submissions made by both the parties, this Court is unable to agree with the view of learned counsel appearing for the respondent-State for the reason that from a careful perusal of the order dated 11.10.2012 passed in C.W.J.C. No.13421 of 2009 and order dated 01.11.2013 in L.P.A. No. 540 of 2013, it cannot be inferred that any express liberty was granted to the department to hold *de novo inquiry* and to pass the second termination order. In other words, the entire matter had attained finality by the order dated 11.10.2012 (Annexure-11) and the order dated 01.11.2013 (Annexure-12). The interpretation made by the learned counsel appearing on behalf of the respondent-State of the L.P.A. order dated 01.11.2013 that leave was granted to the department to proceed in accordance with law is misplaced and not correct for the reason that it was merely a submission made on



behalf of the appellant but, no such leave was granted which is apparent from the perusal of the order dated 01.11.2013 passed in LPA No. 540 of 2013.

8. In such view of the matter, the writ petitioner has made out a case for allowing the writ application, hence, writ application is allowed. The order dated 25.08.2015 contained in memo no. 258 issued by Director, Secondary Education Department, Bihar, Patna, by which the services of the petitioner has been terminated by initiating a *de novo* inquiry, is, hereby, quashed and set aside. Consequently, the petitioner is directed to be reinstated in service with full back wages/salary and all consequential benefits.

9. In the aforesaid terms, this writ application is allowed.

(Alok Kumar Sinha, J)

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