

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17423 of 2022

=====

Kanhaiya Jee Son of Late Laxmi Prasad Mathuri, Resident of Purani Bazar
Goshala Road, Jhajha, P.S.- Jhajha, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Department of Education, Bihar, Patna.
3. The Director (Secondary Education), Bihar, Patna.
4. The District Magistrate, Jamui.
5. The District Education Officer, Jamui.
6. The Principal Plus Two B.L. Sharma Anugrah Higher Secondary School,
Jhajha, P.O.- Jhajha, District- Jamui.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Sinha
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw (GP-23)
		Mr. Arvind Kumar, AC to GP-23

=====

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 18-04-2025

Heard learned counsel for the parties.

2. The petitioner, who was appointed as night watchman in +2 B.L.S. Anugrah Higher Secondary School, Jhajha, Jamui on temporary basis vide an order of appointment dated 12.12.2019, issued by the Headmaster of the aforesaid school, has filed this writ petition challenging the order dated 20.09.2022, issued by the In-Charge Principal, +2 B.L.S. Anugrah Higher Secondary School, Jhajha, Jamui, whereby, the petitioner has been removed from the post of night watchman of



the aforesaid school.

3. Learned counsel for the petitioner submits that the petitioner has been removed from service by the impugned order dated 20.09.2022 without any justifiable reason, besides being done so, without issuing him show cause notice and giving him adequate opportunity of hearing.

4. Respondent no.5/ the District Programme Officer, Jamui has filed a counter affidavit. Learned State counsel has referred to paragraph nos. 8 and 9 of the counter affidavit filed by respondent no.5, which reads as follows:-

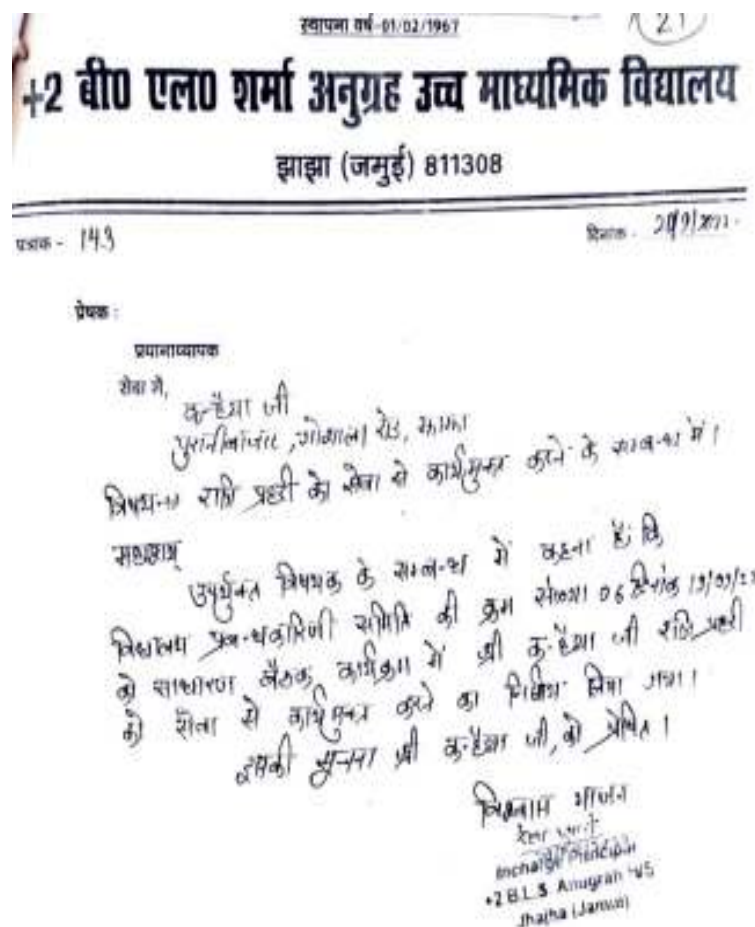
“8. That from perusal of the averments made in writ application it appears that petition was appointed on the post of Nigh Guard by the managing committee on completely temporary basis with fixed honorarium.

9. That it is relevant to mention here that the action has been taken by the competent managing committee vide its meeting dated 19.09.2022 through the proposal no. 06 with full majority passed the proposal of cancellation of appointment of the petitioner from the post of Night Guard and the same has communicated to the petitioner vide letter no. 143 dated 19.09.2022 and decided to made afresh appointment accordance with law.”

5. After hearing the parties and on perusal of the material placed on record, it appears that the petitioner was



appointed as night watchman of the +2 B.L.S. Anugrah Higher Secondary School, Jhajha, Jamui vide an order dated 12.12.2019, issued by the Headmaster of the aforesaid school on temporary basis. It is also not in dispute that the petitioner has been removed from the post of night watchman of the school vide impugned order dated 20.09.2022, issued by the In-Charge Principal of +2 B.L.S. Anugrah Higher Secondary School, Jhajha, Jamui. The impugned removal order of the petitioner from service dated 20.09.2022 has been enclosed as Annexure-4 to the writ petition, which is extracted hereinbelow for ready reference:-



6. Learned advocate for the petitioner has furnished an English translated copy of the impugned letter dated 20.09.2022, which has been crossed checked by learned advocate for the respondent-State.

7. On perusal of the impugned removal order dated 20.09.2022, it appears that there was a general meeting of the School Managing Committee held on 19.09.2022, wherein, it was decided to remove the petitioner from service of night watchman of the aforesaid school. Beyond that, there is nothing in the impugned order dated 20.09.2022 to show that as to what transpired in the general meeting of the School Managing Committee held on 19.09.2022 for reaching to a decision for removal of the petitioner from his service. In other words, no reason is discernible from the impugned order as to why the petitioner's service as night watchman was dispensed with nor there is any indication in the impugned order/order that any show cause notice was issued to the petitioner giving him adequate opportunity to defend himself.

8. In the counter affidavit filed by the respondent no.5 also, nothing has been indicated as to whether any opportunity of hearing was provided to the petitioner by issuing him a show cause notice before his service was decided to be dispensed



with. What the counter affidavit, filed by the respondent no.5 as extracted hereinabove, indicates is that the School Managing Committee in the meeting held on 19.09.2022 through the proposal no. 6 has passed the proposal with full majority for cancellation of appointment of the petitioner from the post of night watchman and further decision was taken to make fresh appointment in accordance with law.

9. On perusal of the impugned order dated 20.09.2022, issued by the In-Charge Principal, +2 B.L.S. Anugrah Higher Secondary School, Jhajha, Jamui removing the petitioner from the post of night watchman as well as the stand taken by the respondent no.5 in the counter affidavit, it does not appear that any reason for removing of the petitioner from the post of night watchman has been assigned nor does it appear that the petitioner was provided an opportunity of hearing before his services was dispensed with by issuing a show cause notice.

10. In view of the above, I find the decision, taken by the School Managing Committee in its general meeting held on 19.09.2022 resulting in the issuance of impugned letter dated 20.09.2022 by the In-Charge Principal, +2 B.L.S. Anugrah Higher Secondary School, Jhajha, Jamui, whereby the petitioner



has been removed from the post of night watchman of the aforesaid school, to be unfair, illegal, arbitrary and in violation of principle of natural justice.

11. Under the circumstances, I am of the view that the impugned order dated 20.09.2022 (Annexure-4), issued by the In-Charge Principal, +2 B.L.S. Anugrah Higher Secondary School, Jhajha, Jamui cannot be sustained in the eye of law and the same is, accordingly, set aside and quashed.

12. The petitioner shall be reinstated as night watchman in the aforesaid school.

13. The writ petition is allowed in terms above.

(Nani Tagia, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18/04/2025
Transmission Date	N/A

