

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21207 of 2018

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Lalita Devi Wife of Amod Kumar Paswan Resident of Village-
Kariho,P.S.Distt.-Supaul

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, Patna
2. The Principal Secretary, Principal Secretary, Education Department, 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, Kariho Block Distt.-Supaul
8. The Mukhiya of the Gram Panchayat of Kariho, Distt.-Supaul
9. The Block Development officer, Supaul, Distt.-Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra
For the Respondent/s : Mr. Kameshwar Kumar - Gp17

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 21-01-2025 1. Heard learned counsel for the petitioner and learned
AC to GP-17 for the State.

2. The learned counsel for the petitioner submits that
petitioner was appointed as Panchayat Siksha Mitra in Primary
School, Dih Tola Kariho, Block Supaul, for 11 months by a
letter dated 22.02.2006, issued under the joint signature of
Mukhiya and Pandchayat Secretary, Gram Panchayat, Kariho,
Block Supaul, thereafter the services of the petitioner as
Panchayat 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 virtue of Rule 20 (3), services of Panchayat Siksha Mitra was absorbed as Panchayat Teacher with effect from 01.07.2006, as such, the petitioner started working as a Pachayat 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.1167 dated 17.09.2018 was issued under the signature of the District Education Officer, Supaul (Annexure-6) 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 memo dated 17.09.2018, the services of the petitioner was terminated by memo no.16 dated 23.10.2018 issued by the Panchayat Secretary-cum-Member Secretary, Teachers Employment Unit Gram Panchayat, Kariho. It is submitted that order dated 23.10.2018 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 Supaul P.S. Case No.508/2018 came to be instituted in light of the order passed in CWJC No.15459 of 2014, wherein the petitioner was also implicated as an accused on the ground that her appointment was made illegally. The learned counsel next submits that merely because an FIR came to be instituted against the petitioner that in itself does not entitle the authorities to terminate the services of the petitioner without issuing any show-cause or seeking her explanation. It is further submitted that termination order of the petitioner was also passed based on an inquiry conducted by the Vigilance behind her back without giving any opportunity to the petitioner to explain her 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 her 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, her 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 in which petitioner is an accused.

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 its case, in that event, what will happen, as such, the authority before terminating the services of the petitioner ought to have issued a show-cause seeking her 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, which 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 her 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 her.

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 her seeking her explanation rather the service of the petitioner was terminated on the ground that an FIR has been instituted against her.

7. The learned counsel appearing on behalf of the petitioner at this stage submits that if an opportunity would have been given to the petitioner before terminating her service seeking her explanation, perhaps the FIR would not have been



instituted as the petitioner would have been in a position to satisfy the authorities that her appointment was not illegal, but then in absence of any opportunity of hearing, 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 services 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-6) passed by the District Education Officer, Supaul and order contained in memo no.16 dated 23.10.2018 passed by Panchayat Secretary-cum-Member Secretary, Teachers Employment Unit, Gram Panchayat Kariho, Block Supaul whereby services of the petitioner has been terminated are 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.

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

(Satyavrat Verma, J)

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