

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.559 of 2025

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Narendra Kumar Srivastva @ Narendra Kumar Shrivastav Son of Late
Kailaspati Prasad, Resident of Village- Matihani Binod, P.O.- Balwansagar,
P.S.- Bishwambharpur, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
3. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
4. The Director Secondary Education, Department of Education, Government of Bihar, Patna.
5. The Joint Secretary-cum-Director, Mass Education (Jan Shiksha), Department of Education, Government of Bihar, Patna.
6. The Director (Administration)-cum-Additional Secretary, Department of Education, Government of Bihar, Patna.
7. The Regional Deputy-Director of Education, Saran Division, Chapra.
8. The District Education Officer, Saran at Chapra.
9. The District Education Officer, Gopalganj.
10. The District Mass Education (Jan Shiksha) Officer, Saran at Chapra.
11. The District Programme Officer, (Establishment), Saran at Chapra.
12. The District Programme Officer, (Literacy), Saran at Chapra.
13. The District Programme Officer, (Planning and Account), Saran at Chapra.
14. The District Treasury Officer, Saran at Chapra.
15. The Principle/Headmaster, Lokmanya High School-cum-Inter Collage, Kudariya Rajapatti, Post- Dumarsan Bangra, P.S.- Masrakh, District- Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nityanand Mishra, Advocate Mr. Alok Abhinav, Advocate Mr. Abhishek Mishra, Advocate
For the Respondent/s	:	Mr. Anuj Kumar, AC to GP 27

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 23-01-2025

Heard Mr. Nityanand Mishra along with Mr. Alok

Abhinav and Mr. Abhishek Mishra, learned counsels appearing



on behalf of the petitioner and Mr.Anuj Kumar, learned AC to GP 27 for the State.

2. Petitioner has *inter alia* prayed for following reliefs in the paragraphs No.1 of the writ petition:-

“(I) For issuance of a writ in the nature of certiorari for quashing and setting aside the order issued vide Memo No.1234 dated 19.07.2023 (Annexure – P/11) by the Joint Secretary-cum-Director, Mass Education (Jan Shiksha) (respondent no.5), whereby and whereunder the petitioner has been awarded punishment of dismissal from service since the date of appointment and also directed to make recovery of paid salary in one time which has been paid to the petitioner during his service period and also directed not to pay any heed of the retirement benefits, without initiating any 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.133 dated 25.07.2023 (Anneuxre-P/12) issued by signature of the District Education Officer, Saran at Chapra (respondent no.8), in view of the order issued vide Memo No.1234 dated 19.07.2023 (Annexure-P/11) by which the petitioner has been awarded punishment of dismissal from service since the date of appointment and also directed to make recovery of paid salary in one time which has been paid to the petitioner during his service period and also directed not to pay any heed of the retirement benefits, without initiating any 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 and 8, to reinstate the petitioner in his service since the date of dismissal along with all benefits as well as retirement benefits with immediate effect.

iv. Further for directing/commanding the respondents to grant stay with immediate effect on the orders issued vides Memo No.1234 dated 19.07.2023 and Memo No.133 dated 25.07.2023 (Annexure-P/11 & P/12 respectively) 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 his family members who suffers a lot due to illegal dismissal from service along with retirement benefits of the petitioner.

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

3. Learned counsel appearing on behalf of the petitioner submitted that petitioner was absorbed as Class IV employee in Lokmanya High School, Rajapatti, Kudariya, District, Saran at Chapra and he gave his joining on 16.01.2018. In respect of the same, he has placed reliance on the noting made in the service book by the principal of the School, whereby the service of the petitioner has been certified since 16.01.2018 to 31.07.2023 (Annexure P/7). Learned counsel submitted that above exercise was undertaken by the principal in



light of the directive contained in SLA (C) No.32079 of 2015 dated 26.02.2016 by the Hon'ble Supreme Court. The Director, Mass Education (Jan Shiksha), Bihar issued Memo No.1417 dated 21.06.2017, seeking following information in paragraph no.6 therein:

(i) regarding the date of birth certificate;

(ii) regarding Educational qualification certificate;

(iii) Proof of filing of case in this Court, as well as before Hon'ble Supreme Court by the name in person on or before 26.02.2016

(iv) proof of work experience regarding discharging duty as Instructor of non-formal education regularly for three years.

4. Learned counsel in support submitted that he had submitted required information contained in said memo on 16.05.2016. However, the petitioner admits that he has not been able to bring on record the documents, which he has already submitted along with the format as contained in Annexure P/6 in light of the LPA No. 1489 of 2011 and SLA (C) No.32079 of 2015. Learned counsel further submitted that the petitioner was absorbed and was communicated *vide* memo No.105 dated 16.01.2018, jointly signed by the District Programme Officer



(Establishment), Saran and District Education Officer, Saran.

The said letter also contains that the petitioner is entitled for grade pay of Rs.18,000/- and is entitled for 7th pay revision in pay band Level 1, applicable for the matric. In spite of the services having been absorbed, without giving him any opportunity of hearing, the petitioner was dismissed from service on the ground that only those persons were required to be absorbed who were found working for three years continuously and it was found that the petitioner was not found working regularly for three years. The reason has been shown in paragraph no.7 of the impugned order contained in Memo No.1234 dated 19.07.2023 (Annexure P/11). It is the claim of the petitioner that petitioner was not given any opportunity before he has been dismissed from service by the Joint Secretary, Education Department, Government of Bihar-cum -Director , Jan Shiksha, Bihar. Aggrieved by the *ex parte* order, the petitioner seeks the same to be set aside and quashed.

5. *Per contra*, Mr. Anuj Kumar, learned State counsel has submitted that the order of dismissal of the service of the petitioner is in accordance with law. The petitioner was aware of the directive contained in SLA (C) No.32079 of 201, arising out of LPA No.1489 of 2011 and was required to give



correct information in the requisite form, which the petitioner has not given intentionally, in spite of the fact that, he has not worked regularly. It has been recorded that the petitioner has not worked regularly on the basis of the records which shows that the petitioner worked from 08.08.1994 to 31.07.1996 and from 15.05.1997 to 15.02.1998. The inquiry report of the District Programme Officer (Literacy) contained in memo No.156 dated 10.06.2023 cannot be said to be based on the records available in respect of the petitioner in the office of the District Programme Officer (Literacy). He further submitted that the law in this regard is well settled that the person who consistently gives incorrect information in affidavit is self-responsible for the consequences. In this background, it is submitted that no interference of this Court is required and the writ petition is fit to be dismissed.

6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties, as well as, having perused the impugned order, it appears that the petitioner was absorbed by the District Programme Officer (Establishment) concerned, who had issued appointment letter contained in Memo No. 16.01.2018 (Annexure P/5), which is based on the name of the petitioner



having figured in the list prepared on the basis of the information sought from the respective instructors. Once the petitioner was absorbed in service, the proper course having not been adopted by the appointing authority before dismissing the petitioner from the service can only be said to be in violation of Article 311 of the Constitution of India. Apparently, in the present case, the dismissal order is *ex parte*, without giving opportunity to the petitioner and as such the impugned order contained in Memo No.1234 dated 19.07.2023 passed by the Joint Secretary-cum-Director, Mass Education (Jan Shiksha) (Annexure – P/11) and order contained in Memo No.133 dated 25.07.2023 passed by the District Education Officer, Saran at Chapra (Anneuxre-P/12) are hereby set aside and quashed. The authority concerned, if so desire, may take corrective measures.

8. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.01.2025
Transmission Date	NA

