

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21190 of 2018

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Sudha Kumari, Wife of Bimal Sah, Daughter of Shiv Shanker Sah, Residing
at Lohiyanagar Chowk, Ward No. 8, Supaul, P.S. + District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through 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, District- Supaul.
5. The District Programme Officer (Est.), Supaul, District- Supaul.
6. The Block Education Officer, Supaul, District- Supaul.
7. The Block Development Officer, Supaul, District- Supaul.
8. The Panchayat Secretary, Loukaha, Block and District- Supaul.
9. The Mukhiya of the Gram Panchayat of Loukaha, Block and District - Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Advocate Mr. Dhandev Kumar, Advocate Mr. Atul Kumar, Advocate
For the Respondent/s	:	Mr. AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 27-01-2025

Heard learned counsel for the petitioner and learned AC
to GP-27 for the State.

2. Learned counsel for the petitioner submits that
initially the writ application was filed seeking quashing of the
memo no. 1163 dated 17.09.2018 (Annexure-7) issued under the
signature of the District Education Officer, Supaul addressed to the
Block Development Officer-cum-Member Secretary, Block



Education Employment Unit, Loukaha whereby it was directed to terminate the services of the petitioner in light of the order passed in C.W.J.C. No. 15459 of 2014 and to recover the salary given to the petitioner by instituting a case under the Public Demand Recovery Act. It is further submitted that in pursuance of the letter dated 17.09.2018 issued by the District Officer, Supaul, the services of the petitioner were terminated by memo no. 17 dated 31.10.2018 issued by the Panchayat Secretary-cum-Member Secretary, Panchayat Teacher Employment Unit, Gram Panchayat, Loukaha, Supaul (Annexure-P/8).

3. It is next submitted that order dated 31.10.2018 has been challenged by way of filing I.A. No. 01 of 2025.

4. I.A. No. 01 of 2025 is allowed for consideration.

5. Learned counsel for the petitioner submits that petitioner was appointed as Panchayat Teacher on 15.02.2007 and thereafter was continuously discharging her duty when an FIR came to be instituted against her and others bearing Supual P.S. Case No. 508 of 2018 alleging therein that the petitioner at the time of seeking appointment had interpolated her marks in the marksheet of Intermediate i.e. petitioner had obtained 55% but at the time of seeking appointment, the certificate of Intermediate which was submitted by her recorded her percentage as 64%.



6. Learned counsel for the petitioner next submits that the aforesaid FIR was instituted in pursuance of the order passed by this Court in C.W.J.C. No. 15459 of 2014. It is next submitted that this Court in C.W.J.C. No. 15459 of 2014 had passed an order giving amnesty to those teachers who had sought appointment based on forged and fabricated certificate to tender their resignation. The order recorded that if the teachers, who have sought appointment based on forged and fabricated certificate, do not give resignation within the amnesty period in that event the Vigilance was directed to institute an FIR and investigate.

7. Learned counsel for the petitioner submits that petitioner did not resign during the period of amnesty for the reason that she had not obtained her appointment as Panchayat Teacher based on forged and fabricated certificate. It is further submitted that merely because an FIR came to be instituted against the petitioner with the aforesaid allegation that in itself did not entitle the authorities to terminate the services of the petitioner without issuing any show cause or seeking her explanation. It is next submitted that termination order of the petitioner was 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 submitted that no doubt, this Court in C.W.J.C.



No. 15459 of 2014 had given amnesty to teachers to resign voluntarily, who had sought appointment, based on forged and fabricated certificate and if the teacher did not resign within the period of amnesty in that event the Vigilance was directed to hold an inquiry and institute an FIR but then it is submitted that since the petitioner had not obtained her appointment as Panchayat Teacher based on forged and fabricated document, hence, the petitioner in terms of the order passed in C.W.J.C. No. 15459 of 2014 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 the Vigilance had instituted an FIR with the aforesaid allegation.

8. Learned counsel for the petitioner submits that allegations are in realm of allegations 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. Learned counsel fairly submits that rule of strict



evidence does not apply in a departmental proceeding as it 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 direction 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.

9. Learned counsel appearing on behalf of the State is not in a position to rebut the submissions of the learned counsel appearing on behalf of the petitioner that before terminating the services of the petitioner, no show cause was issued to her seeking her explanation rather the services of the petitioner were terminated on the ground that an FIR has been instituted against her. Learned counsel for the State further submits that there is an allegation against the petitioner that she had interpolated her marksheet of Intermediate.

10. Learned counsel appearing on behalf of the petitioner vehemently rebuts the said submissions of the learned counsel appearing on behalf of the State that petitioner had



interpolated her marksheet of Intermediate and submits that had an opportunity been given to the petitioner to explain her side of the case before terminating her services, perhaps the FIR would not have been instituted as the petitioner would have been in a position to satisfy the authorities 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. Learned counsel for the petitioner next submits that similarly situated person Lalan Kumar Paswan had approached this Court by filing C.W.J.C. 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 were terminated in complete breach of the principles of natural justice i.e. without giving any notice or opportunity of hearing.

11. After hearing the learned counsel for the parties, the order contained in memo no. 1163 dated 17.09.2018 passed by the District Education Officer, Supaul and the order contained in memo no. 17 dated 31.10.2018 passed by the Panchayat Secretary-cum-Member Secretary, Panchayat Teacher Employment Unit, Gram Panchayat, Loukaha, Supaul whereby services of the petitioner has been terminated are hereby quashed and the authorities are directed to reinstate the petitioner back in service.



12. Accordingly, the instant writ application is allowed.

13. 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.

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

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	27.01.2025
Transmission Date	

