

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10524 of 2018

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Aarti Kumari @ Aarti Devi wife of Anil Kumar Singh and Daughter of Sri Narayan Chaudhary, resident of Village- Bagauchhia Bhithi, P.O. Bhithi, P.S. Baniyapur, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna. null null
4. The Regional Deputy Director of Education, Saran Division, Chapra.
5. The District Education Officer, Saran at Chapra, District- Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Mangalam, Ms.Anita Kumari, Advocates
For the Respondent/s	:	Mr. Ram Vinay Pd. Singh -AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

12 22-06-2026 Heard Mr. S.B.K. Mangalam, learned counsel for the petitioner and Mr. Ram Vinay Pd. Singh, learned AC to GA-12 for the Respondents-State.

2. The present writ petition has been preferred for the following relief(s):-

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 09.05.2014 passed by the Respondent no.4 and contained in his memo no.303 dated 09.05.2014 whereby and where under the Respondent no.4 has been pleased to dismiss



the petitioner from service and has also directed for lodging First Information Report and for recovery of the amount by the petitioner by way of salary as an Assistant Teacher.

(II) For a declaration that because of the mistake of the office in the appointment letter of the writ petitioner, her father's name was wrongly mentioned as Narayan Chaudhary though his name was Shiv Narayan Chaudhary, the mistake of office cannot be a ground to doubt the certificate of the petitioner for the purposes of her dismissal from service and that too after about 23 years of her appointment.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for reinstatement of the petitioner to her post which she was holding on the day when the impugned order came to be passed by the Respondent no.4 with all consequential benefits including payment of salary from the date of the impugned order and till the date of her reinstatement.

(IV) For issuance of any other appropriate writ/writs, order /orders, direction/directions for which the writ petitioner would be found entitled under the



facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher in Government Basic School under Saran Division pursuant to the advertisement dated 09.08.1988 issued from the office of Director, Primary Education-cum-Additional Secretary, Government of Bihar, Patna. It has further been submitted that by resorting to the procedures adopted for selection, the petitioner, upon having been found to be eligible, was given appointment on the post of Assistant Teacher and a letter of appointment was issued in her favour by the Respondent No.4 *vide* Memo No. 261 dated 31.01.1991 (Annexure P/4). Thereafter, the petitioner submitted her joining in the school concerned and was discharging her duties with the best of her capacities. Before issuance of salary in her favour, the testimonials/educational certificates were sent for verification to the concerned authority and only after the certificates of the petitioner were verified and certified, her salary was released by the Respondent No.4.

4. All of a sudden, a controversy arose in the year 1991, that some teachers have joined in Basic Schools on the basis of fake appointment letters and the allegation of having



secured appointment on the basis of fake appointment letter, the petitioner has been ousted from the service. An enquiry is said to have been instituted, which followed with a Vigilance case having been lodged in the year 1991. The Department of Vigilance which held an enquiry in respect of appointment of Assistant Teachers in Basic Schools of Saran Division in 1991 and submitted its report wherein no action was recommended against the petitioner.

5. It is the case of the petitioner that pursuant to order of this Court dated 25.07.2012 passed in CWJC No. 8942 of 2001, the Principal Secretary took up the matter personally and directed the Respondent No. 4 *vide* his letter no. 1537 dated 24.10.2013 to submit analytical report for which the three men Committee was constituted under the Chairmanship of the Respondent No.4. Thereafter, the Respondent No.4 submitted his report pursuant to which, the Respondent No.2 issued a letter no. 1435 dated 19.12.2014 directing the Respondent No.4 to terminate the services of the petitioner along with others but after holding the proceeding in the manner prescribed under Bihar CCA Rules, 2005.

6. It is the case of the petitioner that the proceeding which was said to have been initiated on the basis of First



Information Report based on which, Memo of Charge which is said to have been framed against this petitioner, duly signed by the Respondent No.4, the requirement of Rule 17(3) of the Bihar CCA Rules, 2005, has not been followed and by referring to the memo of charge, this petitioner submits that in order to conduct fact finding enquiry with regard to the appointment having been obtained on the basis of alleged fake certificates for which, the materials were supplied to this petitioner, was the enquiry report, which is said to have been conducted by Respondent No.4/Regional Deputy Director of Education, Saran Division, Chapra. The enquiry report which was supplied to this petitioner did not refer any of the materials, being of unimpeachable character or being of such nature which could have been relied upon by the Disciplinary authority to *prima facie* hold the appointment of this petitioner to be fake, based on which the order of termination has been passed, by issuing the impugned order.

7. It has next been submitted that the order impugned which has been passed by the Respondent No.4/ Regional Deputy Director of Education, Saran Division, Chapra, goes to show that the compliance of Rule 17(3) and 17(4) of the Bihar Government Servant (Classification, Control and Appeal) Rules,



2005, has not appropriately been made and no opportunity of hearing was given to this petitioner to seek explanation by supplying materials/documents, which could have *prima facie* held the appointment of this petitioner to be fake and even the list of documents and witnesses were not provided, which could have shown that the documents produced by the petitioner, were not of her rather belonged to some one else. Only by supplying with the enquiry report of Vigilance, may not have brought the charges to book rather the materials referred being germane to the allegation were required to have been supplied and proved in the enquiry so instituted.

8. To buttress the submission, learned counsel for the petitioner relies upon the order/judgment passed in the case of ***Roop Singh Negi vs. Punjab National bank & Ors.*** as reported in ***2009 (2) SCC 570***, wherein the Hon'ble Court has emphasized that it is mandatorily required that the disciplinary authority not only to give a list of documents on which the charges are founded but also give a list of such witness by whom, the article of charges are to be proved. It would be also worth encapsulating the relevant observations of the Hon'ble Supreme Court in the case of ***Roop Singh Negi (supra)***.

“14. Indisputably, a departmental proceeding is a quasi judicial proceeding.



The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence"

9. At this stage, learned counsel for the petitioner by referring to the supplementary affidavit and the office order, which has been appended as Annexure P/12 & P-12/1 submits that the order of dismissal, which was passed in the same transaction against one Baleshwar Prasad Singh and Dinesh Kumar Singh, who were also appointed in the same transaction based on similar allegation, their services have been restored with consequential benefits *vide* Memo No. 127 dated 31.01.2023 and Memo No. 339 dated 24.03.2023 issued under the signature of RDDE, Saran, Chapra.

10. The consideration which is said to have been



made by disciplinary authority by referring to the training period 1987-1989 and the training examination year being 1990 and the result having being published in 1991 besides the facts referred in the impugned order that advertisement, which is referable to the appointment in question, while the petitioner is said to be under trainee, for which no materials have been referred much less any deliberation in reference to material documents could be noticed and such reference may not in itself be a ground for drawing an adverse inference that on 01.08.1988, the delinquent did not fall within the cut-off provided for age limit between 18 to 30 years and the reasons for doubting the eligibility is the date of birth of this petitioner being 08.05.1967, and even if this is accepted, the delinquent's eligibility cannot be doubted to support such findings. The Disciplinary Authority has recorded that these details are not been mentioned in the attendance register or appointment register, which may not be relevant or sufficient for holding the petitioner's appointment to be forged and same cannot be allowed to sustain because no such documents were ever fetched by the enquiry officer, and from the order impugned, it appears that the findings are beyond the Memo of Charge and these records were never supplied to the petitioner to seek



response and unilateral finding is said to have been recorded.

11. As is evident from the impugned consideration that without there being any prudent material to support the allegations of appointment having been fetched by this petitioner on the basis of forged documents, still the enquiry against the petitioner was instituted and the report which was supplied by the petitioner to the authorities did not indicate any cogent material being germane to the allegation levelled in the memo of charge, based on which, the impugned order of dismissal was recorded, which apparently appears to have been initiated based on no evidence. The judgment of Hon'ble Apex Court rendered on the subject in issues in the case of ***Union of India v. H. C. Goel*** as reported in ***AIR 1964 SC 364*** is being referred for appreciation and the relevant paragraphs are reproduced hereunder:

“23. That takes us to the merits of the respondent's contention that the conclusion of the appellant that the third charge framed against the respondent had been proved, is based on no evidence. The learned Attorney-General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown



that the view taken by the appellant is a reasonably possible view this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondent's case is, is there any evidence on which a finding can be made against the respondent that Charge No. 3 was proved against him? In exercising its jurisdiction under Article 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence illegally the impugned conclusion follows or not. Applying this test, we are inclined to hold



that the respondent's grievance is well founded, because, in our opinion, the finding which is implicit is the appellant's order dismissing the respondent that charge number 3 is proved against him is based on no evidence."

12. From the impugned order, it also appears that the petitioner had shown inability to participate in the enquiry owing to her ill health and sought time, which has become the sole basis to draw inference by the disciplinary authority that the delinquent is evading to submit proper reply and by drawing such adverse inference, the appointment of petitioner is declared to be forged, which presumption is in complete violation of principle of natural justice and cannot be allowed to sustain in law.

13. Any conclusion drawn based on presumption not supported with any cogent material may not be considered to be a decision based on prudent material and evidence being connected with the allegation for which fact finding enquiry is directed by constituting a departmental enquiry of the kind being instituted against the petitioner. To appreciate the same, the judgment of Hon'ble Apex Court rendered on the subject in issue in the case of ***Manohsr Lal v. Commissioner of Police & Ors.*** as reported in ***2026 INSC 234*** is being reproduced



hereunder:

“31 After appreciating the reasoning given in the report of the ACP as per the above discussion, in our view, in the statement of witnesses no incident of traumatising the complainant and witnesses have been recorded, therefore, nothing is available on record to accept the plea of threatening, intimidation or inducement to any witness to turn hostile. The disciplinary authority proceeded on the presumption of the ACP who conducted preliminary enquiry without any material and concluded that holding a regular enquiry is not reasonably practicable. Analysing the purport of the proviso and the interpretation made in the judgment of Tulsiram Patel (Supra) it was the duty of the disciplinary authority to satisfy himself that such reasoning as indicated in the preliminary enquiry report is based on some material, sufficient to dispense with an enquiry. In absence of the same, merely belief or a presumption is not sufficient to record such finding and to deviate from the normal procedure. It is not out of place to mention that the order of dismissal was passed on 18.07.2017. The appellant was taken into custody on 29.06.2017 and he was only be released on bail on 14.10.2017. In such a situation it is clear that while he was in custody the order of dismissal was passed. Therefore, it was incumbent upon the ACP holding the preliminary enquiry to indicate any instances of threat from custody to the complainant or to intimidate witnesses brought during investigation. In the preliminary enquiry report none of the



witnesses have indicated about threat or intimidation or possibility of threat to turn those witnesses hostile, therefore, we have no hesitation to say that the order passed by the disciplinary authority dispensing with the enquiry as required is without application of mind and cannot be sustained. In fact, it is the duty of the disciplinary authority to record satisfaction how and in what manner holding an enquiry is not reasonably practicable. In our view, the authority has completely failed to understand the letter and spirit of Tulsiram Patel (Supra) while passing the order that too without any basis to dispense with normal procedure and directed dismissal which cannot be countenanced.”

14. On the other hand, learned counsel for the State *vide* order of this Court dated 07.04.2026 was directed to bring on record the necessary materials to show that the documents referred in memo of charge dated 15.04.2013 was supplied to this petitioner in terms of Rule 17(3) of the Bihar CCA Rules, 2005 for enabling the delinquent to know the substance of the imputation made against the petitioner and as also to file suitable reply to the same but the State has not brought any such materials to show that even during course of enquiry and as also the departmental enquiry, in which the order impugned as contained in Memo No. 303 dated 09.05.2014 was passed, the witnesses were allowed to depose by providing opportunity to



cross-examine to prove allegations of appointment having been fetched on the basis of fake documents/certificates are supported with the cogent materials wherein, the petitioner's termination could have been held to be justified in law.

15. The findings which have been recorded in the order impugned holding the training certificate to be forged is baseless as the opinion rendered by the enquiry officer refers that the petitioner had appeared in the enquiry and had sought for time to show her *bona fide*, wherein the appointment of the petitioner has been said to be forged, while the said enquiry report do indicate that the repeated request was made to this petitioner to place her case, but same was not done owing to illness, which fact has only been recorded in the enquiry report and without any material evidence produced in the enquiry by the presenting officer to proceed *ex parte* or having sought from the delinquent to meet the allegation as is apparently missing from enquiry report, the appointment of the petitioner has been declared to have been fetched on the basis of forged documents, which is admittedly in violation of mandatory compliance of the requirement envisaged under 17(3) & (4) Bihar CCA Rule, 2005.

16. The dispute which is said to be arisen because of



there being a typing error in the name of father of the petitioner whose actual name is Shiv Narayan Chaudhary, which inadvertently, in the records of the office, has been recorded as Narayan Chaudhary, but the authorities even while preparing the charge memo for instituting the departmental enquiry have not produced any material to show as to how such conclusion has been arrived, which could have easily been verified by calling the delinquent's father to participate in the enquiry and caused him to produce material documents and further the person who had issued the certificate of training and other certificates could have also been called in the enquiry, to get the things verified before recording such findings, holding the petitioner's appointment to be fake and in absence of any such prudent material, the punishment recorded *vide* impugned order cannot be allowed to be sustained in law.

17. Considering the fact that the very genesis of initiation of Departmental enquiry is based on no evidence and framing of memo of charge is also in violation of the procedure prescribed under Bihar CCA Rules, 2005 and the documents/certificates of the petitioner having not been declared to be fake/cancelled and further, the State has produced any material to substantiate the fact that the petitioner has



obtained appointment based on fake materials despite opportunity *vide* order dated 07.04.2026 having been given to the State to bring on record such materials based on which, the memo of charge has been framed and said to be served upon the petitioner *vide* Memo No. 350 dated 15.04.2013 duly signed by the Respondent No.4/ Regional Deputy Director of Education, Saran Division, Chapra, the impugned as contained in Memo No. 303 dated 09.05.2014 passed by the Respondent No.4/ Regional Deputy Director of Education, Saran Division, Chapra cannot be allowed to sustain and accordingly, is set aside and the petitioner is directed to be reinstated back in service with all consequential benefits which has been allowed in case of others, as referred *vide* Annexure P/12 and P-12/1.

18. The writ petition stands allowed.

(Ajit Kumar, J)

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