

Bhola Prasad Keshari Son of Late Dev Narayan Keshari, Resident of Village-Salpur, P.S. Gauradih, District- Bhagalpur.

Versus

1. The State of Bihar through The Addl. Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Director Mass Education Cum Special Secretary, Education Department, Bihar, Patna.
3. The Chief Engineer (South)-cum-Appellate Authority, Building Construction Department, Govt. of Bihar, Patna.
4. The District Magistrate, Bhagalpur.
5. The District Education Officer, Bhagalpur.
6. The District Programme Officer, (Literacy), Bhagalpur.
7. The Superintending Engineer, Building Circle, Building Construction Department, Bhagalpur.
8. The Executive Engineer, Building Construction Department, Building Division, Bhagalpur.
9. The District Public Education Officer, Bhagalpur.
10. The Project Officer, Non Formal Education, Sabour, Bhagalpur.

... .. Respondent/s

For the Petitioner/s : Mr.Rajendra Kumar Jain, Adv.
Mr.Ajay Kr. Jain, Adv.
For the Respondent/s : Mr.Venkatesh Kr. AC to GA2

3 10-02-2026 Heard Learned Counsel for the petitioner and
Learned Counsel for the State.

2. Learned Counsel for the petitioner submits that the present writ petition has been filed with the following reliefs:-

(i) For quashing the office order No. 36 dated 30.6.2021 issued under the signature of the Superintending Engineer, Building circle, Building Construction



Department, Bhagalpur vide Memo No. 567 by which order, the petitioner has been dismissed from the Government service as well as direction was given by the said Authority for recovery of the paid amounts from the employee and the aforesaid order has been passed by this respondent in pursuance to the order issued by the director Incharge Mass Education cum Special Secretary, Education Department, Bihar, Patna vide Memo No. 698 dated 28.6.21.

(ii) For quashing the order dated 28.6.21 passed by the Director Incharge, Mass Education cum Special Secretary, Education Department, Bihar Patna contained in Memo No. 698 by which the said Authority has cancelled the earlier recommendation of absorption/appointment of the petitioner against class-IV sanctioned and vacant post issued by him through Memo No. 2914 dated 4.12.2019 to the Superintending Engineer, Building Construction Department, Building Circle, Bhagalpur.

iii) For quashing the office order dated 13.7.2021 contained in letter No. 2139 issued under the signature of the Executive Engineer, Building Division, Building Construction Department, Bhagalpur by which the petitioner has been relieved from his government work and also directed to submit reply as to why not legal action be taken against the petitioner.

(iv) For quashing the Memo No. 1006 (s) dated 27.05.2024 issued by the Chief Engineer (South), Building construction Department, Bihar, Patna whereby the service appeal filed by the petitioner has been dismissed by the said appellate authority in a mechanical manner without hearing the petitioner.

(v) For quashing of the Letter No. 2055/Bhagalpur dated 08.07.2024 issued by the Executive Engineer, Building Division, Bhagalpur whereby the said



authority has directed the petitioner to deposited the amount of Rs. 24202/- paid as salary to the petitioner during his service period which is illegal and arbitrary.

(vi) For reinstatement of the petitioner on his post with all the consequential benefits as the petitioner has been dismissed from the service on an illegal consideration from the permanent sanctioned post without asking any show-cause notice and not giving any opportunity to him to defend his case which is the violation of natural justice and the provisions of the constitution of India.

3. Counsel for the petitioner further submits that the absorption of the petitioner has been made in the light of sanctioned vacant post by the order passed in S.L.P. No.32079 of 2015 dated 26.02.2016 on the basis of two conditions that the instructor (अनुदेशक) ought to file writ petition prior to 26.02.2016 before this Hon'ble Court and second that he has experience of three years working as Instructor. He further submits that the petitioner has fulfilled conditions, it is due to this reason, his absorption has been made, but subsequently vide order dated 28.06.2021 contained in Memo No.698 and another letter has been issued vide office order dated 30.06.2021 contained in Memo No.567 by which his absorption has been terminated and directed for recovery of the payment made to him, has been made, then he moved before this Hon'ble Court in C.W.J.C. No.16630 of 2021 in which vide order dated 07.02.2024, he was directed to move before the Appellate Authority.



4. Counsel further submits that the Appellate Authority had passed a reasoned order dated 27.05.2024 contained in Memo No.1006, which is the order impugned here as well as following the said order, another letter dated 08.07.2024 contained vide letter No.2055 has also been filed, which is Annexure-P/12 by which direction for payment of Rs.24,202/- has been made otherwise a certificate case has to be filed. He further submits that a certificate of working three years has been issued by virtue of Memo No.535 dated 09.08.2006, but in this regard, the respondent department is saying that the said Memo has been issued to one another person namely, Vidhya Bharti. Therefore, it is the contention of the State that the said Memo No.535 dated 09.08.2006, which has been issued in favour of the petitioner, is forge and fabricated.

5. Counsel further submits that the petitioner has demanded an RTI and information has been received that the said letter No.535 dated 09.08.2006 has not been issued in the name of Vidhya Bharti (Annexure-P/9). It is due to this reason, the finding of Executive Engineer (respondent No.8) and the Chief Engineer (respondent No.3) are bad therefore, those findings should not be taken into consideration and it may be quashed.



6. Counsel for the State, on the other hand, submits that it is the second round of litigation. In the first round, the Executive Engineer had passed the order and found that the Letter No.535 dated 09.08.2006 has been prepared by committing forgery, therefore the case of the petitioner upon consideration by Respondent No.8 and Respondent No.3, found not correct, and therefore, according to him, those letters and subsequent followed up letters, which are impugned here, are absolutely in accordance with law and no need of any interference.

7. In the light of the submissions made, this Court is of the firm view that the letter/certificate contained vide Letter No.535 dated 09.08.2006, is a subject to consideration. The petitioner is saying that this letter is absolutely correct and no forgery has been made, whereas respondent are saying that this letter has been prepared by committing forgery. Under RTI, this response has come that the said letter has not been issued in the name of said Vidhya Bharti.

8. Even after production of the pleadings and the documents of the RTI, the actual question of issue could not be resolved that whether the said Letter No.535 dated 09.08.2006, which is said to be an experience certificate of the petitioner is



genuine or forge.

9. It is the Writ Court and the fact from both the sides are in complete contradiction, which can be settled only by competent Civil Court by virtue of adducing evidences and call for those records and its proper inquiry/ investigation with the relevant Registers, and therefore, this writ petition is hereby disposed of, granting liberty to the petitioner to challenge his letters to be genuine before the competent Civil Court.

10. This Court hereby directs that till disposal of the said suit, no recovery or filing of certificate case shall be made and if filed then, any steps for recovery shall only be subject to the result of the Title Suit.

11. With the aforesaid directions and observations, the present writ application stands disposed of.

(Dr. Anshuman, J)

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