

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19593 of 2015

1. Birendra Pandey son of Shri Madan Pandey, resident of village and P.O. Basdila, Police Station- Gopalganj, District- Gopalganj.
2. Rajesh Kumar Singh son of late Yugal Singh, resident of village- Khargi, P.O. Meerganj, Police Station- Meerganj, District- Gopalganj.
3. Vyas Tiwari son of Shri Vishwanath Tiwari, resident of village Chak Parsuram, P.O. Bindusar, District Siwan.
4. Satyendra Nath Pathak son of Late Chandrika Dutta Pathak, resident of village and P.O. Markan, Police Station- Hussainganj, District Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Bihar, Patna.
3. The Regional Deputy Director of Education, Saran Division at Chapra.
4. The District Education Officer, Siwan.
5. The District Magistrate, Siwan.
6. The District Treasury Officer, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Chitranjan Sinha, Sr. Advocate
Mr. Bajarangi Lal, Advocate
For the Respondent/s : Mr. Manish Kumar, G.P.4
Mr. Manoj Kumar, A.C. to GP.4

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Date : 5-12-2023

1. Heard learned Senior counsel for the petitioners and learned counsel for the respondents.

2. The petitioners have filed the instant application for the following reliefs:

“i) For issuance of an appropriate writ in the nature of certiorari for quashing the order as contained in memo no.484 dated 19.6.2015 passed and issued under the signature of the Regional Deputy Director of Education, Saran Division, Chapra, by which the



claim of these petitioners for reinstatement, joining and payment of salary has been rejected without appreciating the facts and circumstances of the present case.

ii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to reinstate the petitioners as assistant teacher in Govt. Basic Schools with all consequential benefits as the petitioners have been selected as assistant teachers after following all the procedure of legal and valid selection of appointment.

iii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to reinstate the petitioners as assistant teacher in Govt. Basic Schools as the petitioners have been acquitted vide judgment and order dated 29.5.2010 from the alleged allegation of Mairwa Police Station Case No. 126 of 1992 by the learned Sub-Divisional Judicial Magistrate, Siwan in G.R.No. 2880 of 1992, Trial No. 1001 of 2010.

iv) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to accept the joining of the petitioners in the respective Govt. Basic Schools without any further delay as the petitioners have discharged their duty since 7.2.1991 to 18.5.1992, but due to the aforesaid F.I.R. bearing Mairwa Police Station Case No.126 of 1992, the petitioners have not been allowed to discharge their duties but after acquittal from the aforesaid case the



petitioners are entitled to be allowed to join in the respective schools as the petitioners have been selected after due interview having qualification of teacher's training which is the requisite qualification for selection of Govt. Basic School's teachers.

v) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to allow the petitioners' service in continuance as there is no latch on the part of the petitioners.

vi) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners will be found entitled in the facts and circumstances of the case.”

3. The case of the petitioners in brief are that pursuant to the advertisement published in the daily newspaper Aryawart on 8.8.1988 with respect to appointment on the post of teachers in the Government Basic Schools, the petitioners being duly qualified and eligible made their applications against the said advertisement. They appeared in the interview as directed and were appointed by the competent authority and the appointment letters have been brought on record as annexures to the writ application. The petitioners joined as teachers in the Government Basic School and began to discharge their duties.

4. Learned Senior counsel appearing for the petitioners submits that payment of salary of the petitioners having been stopped for no good reason, the petitioners



represented before the respondent authorities. On the basis of an incorrect report even an FIR was registered against the petitioners being Mairwa P.S. Case no.126 of 1992, however, by judgment dated 29.5.2010 passed by the SDJM, Siwan, the petitioners were acquitted of the charges. Thereafter the petitioners filed their representations. On the same not having been disposed of, the petitioners filed CWJC no.13854 of 2011 in this Court. By order dated 8.8.2013 the writ application was disposed of directing the Regional Deputy Director of Education, Siwan Division Chapra to consider and decide the representation of the petitioners. The same not having been done, the petitioners preferred a contempt application (MJC no.683 of 2015). On the respondents being directed to file their show cause in the contempt application, it is stated that the Regional Deputy Director of Education, Siwan Division, Chapra by his order contained in memo no.484 dated 19.6.2015 rejected the claims of the petitioners. It is against this order that the petitioners have preferred the instant writ application for the relief prayed for as stated hereinabove.

5. Learned Senior counsel has taken the Court through the contents of the order impugned dated 19.6.2015 to submit that from a bare reading of the same it would be evident



that there is no consideration whatsoever of the case of the petitioners, no application of mind by the authority concerned and the contention on behalf of the petitioners not having been dealt with, the order is not sustainable and fit to be set aside.

6. Learned counsel for the respondents submits that from reading of the contents of the order impugned it would be evident that several complaints were received in the office of the Lokayukta, Bihar, Patna to the effect that a number of persons had been able to join as teachers in Government Basic School on the basis of forged appointment letters. Pursuant to the enquiry being conducted large number of teachers did not even defend themselves. A number of FIRs were registered. So far as the District of Siwan is concerned, on enquiry it transpired that only 12 teachers had been appointed in the District and the list of those appointed did not contain the name of these petitioners.

7. Learned counsel for the respondents submits that in a similar matter of Phoolandeo Dwivedi, the writ application bearing CWJC no. 9787 of 2003 preferred was dismissed by this Court. Further in another matter with respect to two teachers namely Bhagwan Singh and Kashi Nath Singh, the writ applications preferred by them pursuant to an enquiry having



been conducted by the Vigilance Investigation Bureau, no order was passed by this Court for retaining the said Bhagwan Singh and Kashi Nath Singh in service and in fact steps had been taken for registering of FIR.

8. Learned counsel for the respondents submits that so far as CWJC no.13854 of 2011 with respect to these petitioners are concerned, the petitioners had not produced any evidence in support of their appointments being valid before the Vigilance Bureau. As such the petitioners having obtained their appointment on the basis of forged appointment letters, their prayer for reinstatement, joining and payment of salary was rightly rejected by the Regional Deputy Director of Education by the order impugned dated 19.6.2015. There being no merit in the writ application, the same be dismissed.

9. Having heard learned counsel for the parties and having perused the materials on record, it transpires that on the petitioners moving this Court in CWJC no.13854 of 2011, by order dated 8.8.2014 this Court was pleased to dispose of the said writ application in the following terms:-

“It is the specific case of the petitioners that they were validly appointed after following the due procedure. The appointment letters have been brought on record. This is also their specific plea that their appointment letters have not been



cancelled. In such circumstances, the denial by the respondents to allow the petitioner to discharge their duties on the posts on which they were appointed, on the face of it, appears to be highly arbitrary and illegal. However, in the facts and circumstances of the case, I direct the Regional Deputy Director of Education, Saran Division at Chapra to consider the petitioners' representation dated 16.05.2011, which is annexure-19 to the present writ application. The Regional Deputy Director of Education, Saran Division at Chapra will be required to give the petitioners an opportunity of personal hearing before passing any order on the representation. The Regional Deputy Director of Education, Saran Division at Chapra will examine the validity/ legality of appointment letters issued in favour of the petitioners, if the petitioners produce their interview letters, appointment letters before him and thereafter he will pass a reasoned and speaking order as regards the legality or otherwise of the appointment of the petitioners as Assistant Teachers in Basic Schools. If he comes to any adverse finding, he will be required to issue notices to the petitioners asking their response. This order is being passed in the light of assertion made in the writ application that their appointment letters have not been cancelled. If no illegality is found in the appointment of the petitioners, the Regional Deputy Director of Education will issue appropriate orders allowing the petitioners to join their respective service and will ensure payment of their salaries. The petitioners shall have liberty to claim for back wages also before the



Regional Deputy Director of Education on the ground that they were forced not to discharge their duties during the period in question. Such claim will also be considered by the Regional Deputy Director of Education, Saran Division at Chapra. The entire exercise, as noted above, must be completed within a period of six months from the date of receipt/production of a copy of this order.

This writ application is, accordingly, disposed of.” (emphasis supplied)

10. From the directions of this Court as quoted hereinabove, it is evident that the Regional Deputy Director of Education was to consider the case of the petitioners. He was required to give the petitioners an opportunity of personal hearing before passing an order on the representation. Further it was specifically directed that if he comes to any adverse finding, he will be required to issue notices to the petitioners asking for their response.

11. In compliance of the above direction of this Court, the order dated 19.6.2015 impugned herein has been passed by the Regional Deputy Director of Education. On perusal of the said order it clearly transpires that not only the directions of this Court of issuing notice to the petitioners asking for their response has not been complied with by the authority concerned, in fact, this Court is of the opinion that



even the case of the petitioners has not been considered. The order impugned refers to the order of one Dwivedi, CWJC no.9787 of 2003 filed by him and the order dated 10.3.2015 passed by the Director, Primary Education with respect to him. Further the order refers to CWJC no.8942 of 2001 with respect to one Bhagwan Singh and CWJC no.10212 of 2011 with respect to one Kashi Nath Singh. So far as the case of the petitioners is concerned, the order only states that in the investigation being carried out by the Vigilance, the petitioners did not produce evidence of their appointment being legal, before the Vigilance Investigation Bureau, and thus their appointment was forged and the representation is rejected.

12. In the opinion of this Court, in the order dated 19.6.2015 there is no consideration whatsoever of the case of the petitioners nor is their compliance of the directions contained in order dated 8.8.2014 passed in CWJC no.13854 of 2011 by this Court in it's letter and spirit. For this reasons alone, the order impugned dated 19.6.2015 passed by the RDDE, Saran Division, Chapra is not sustainable and is hereby set aside.

13. The matter is remitted back to the Regional Deputy Director of Education, Saran Division, Chapra to pass a



reasoned order with respect to the petitioners within a period of four months from the date of receipt of a copy of this order strictly in compliance with the directions contained in order dated 8.8.2014 passed in CWJC no.13854 of 2011.

14. The writ application is allowed.

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	8.12.2023
Transmission Date	

