

C-1820
27/11/12

IN THE HIGH COURT OF JUDICATURE AT PATNA
(CIVIL WRIT JURISDICTION)

C.W.J.C.No. _____ of 2012.

Subash Chanora Yadav. _____ Petitioner.

Versus

The State of Bihar and others. _____ Respondents.

Subject:- *Pay promotion (school service)*

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil writ Jurisdiction)

C.W.J.C.No.

of 2012

Subhash Chandra Yadav

..... .. Petitioner

Versus

The State of Bihar and others

..... Respondents

SYNOPSIS

This writ petition has been filed for
quashing of Annexure-5 issued by Respondent no.4.

List of date and Events:-

- | | |
|--------------------------|---|
| 13.12.2011
Annexure-1 | Respondent no.6 was suspended by the concerned authority. |
| 19.12.2011
Annexure-2 | Respondent no. 6 was relieved from the concerned school. |
| 16.1.2012
Annexure-3 | Charges of Headmaster handed over to the petitioner. |
| 26.7.2012
Annexure-4 | Suspension was revoked and punishment was granted to the respondent no.6 |
| 5.9.2012 | The concerned authority given direction to the petitioner to hand over the charge of Headmaster to the respondent no.6. |
- Hence this writ petition.

BIHAR CIRCLE
COURT FEE



BIHAR JUDICIAL
Rs 00002852 21.9.2012
372403
BIHAR
INDIA ••Zero•Zero•Zero•Zero•Two•Eight•Five•

AUTH NO. 3185 DT. 16/12/2008

99/2008/58/6
21/9/12
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21/9/12

IN Fee
UP on
UP on Affidavit
IN Fee

In The High Court of Judicature at Patna
(Civil Writ Jurisdiction)

C.W.J.C.No.

of 2012

In the matter of an application
under Article 226 of the
Constitution of India

and

In the matter of

Subhash Chandra Yadav s/o Shri Birendra Prasad Yadav;

resident of mohalla Jaiprakash Nagar , ward no. 6 p.s. &

District-Madhepura presently Incharge Headmaster Bhadol Anchal

Madhepura ,p.s. & Distt. Madhepura Petitioner

Vc.

1. The State of Bihar
2. The District Education officer, Madhepura
3. The District Project Officer (Establishment),
Madhepura
4. The block Education officer , Madhepura

P-15
A-9-13
Mie
21/9/12

5. The Block Education Officer ,Kymarkhand, District-
Madhepura

6. Om Prakash Assistant Teacher ,Middle School ,Bhadol
Anchal ,Madhepura----- Respondents

To,

The Chief justice Ms. Rekha N.D. Shit the Chief
Justice of the High Court of Judicature at Patna and his
companion justices of the said Hon'ble Court.

The humble petition on behalf
of above named petitioner

Most Respectfully Fully Sheweth:-

1. That this is an application for issuance
of writ in the nature of certiorary to quash the
letter vide memo no. 849 dt. 5.9.12 (Annexure-5)
issued by respondent no. 4 ,the block education
exetention Officer Madhepura whereby and whereunder
a direction has been given that charge of headmaster
may be handed over to respondents no.5.

2. That following question of law are involved in this writ petition.

- I. Whether the action of respondent concerned not giving direction regarding charge of ~~Headmaster~~ incharge Headmaster to the petitioner is malafide, bias, prejudice, and colourable exercise improper ?
- II. Whether action of concern respondent giving direction ~~of~~ to handed over charge of incharge headmaster to the respondent no. 6 is improper and malafide ?
- III. Whether the action of respondent concern to given charge to the respondent no.6 despite a charges were levelled against respondents no.6 ?
- IV. Whether the action of the respondent concern are violation of Article 14, 16 and 300A and 309 of the Constitution of India ?

3. Whether the petitioner is citizen of India and is residing within the jurisdiction of this Hon'ble

-4-

47. That it is relevant to mention here that on the basis of Various charges respondent no. 6 was ^{suspended} by the concerned authority ~~by order~~ vide memo no. 1055 dt. ~~12.12~~

13.12.11 .

A photo copy of letter dt. 13.12.11 is annexed here with and marked as annexure. 1 to this petition.

5. That the respondent no. 6 was relieved from the Concerned school and given direction to join in the office of Block education extension officer Kumarkhand , Distt. Madhepura.

A photo copy of memo no. 617 letter dt. 19.12.11 is annexed herewith and marked as annexure. 2 to this petition.

6. That Charge of headmaster handed over to the petitioner and charges fromed against the respondent no. 6.

4-5

A photo copy of charge of letter
dt. ~~16.1.12~~ 16.1.12 is annexed
herewith and marked as annexure-3
to this petition.

7. That it is relevant to mention here that
after investigation here that after investigation
suspension was revoked and punishment was granted to the
respondent no -6,
petitioner vide memo no. 1663 dt. 26.7.12

A photo copy letter ~~of 26.7.12~~
dt. 26.7.12 is annexed herewith
and marked as annexure 4
to this petition.

8. That it is ~~is~~ relevant to mention here
that suddenly a letter was issued by the respondent no.
4 and given direction to the petitioner to handed
over the charge to the respondent no.6 the earlier
incharge headmaster and if not then action will be
taken against the petitioner .

-6-

A true typed/photo copy of the Letter dated 5.9.12 is being annexed herewith and marked as Annexure-5 of this Application.

9. That it is relevant to mention here that petitioner career is very good whereas Respondent No.6 was punished by the concerned authority.

10. That on the facts/statements stated above there is no other alternative/efficacious remedy except to move before this Hon'ble Court.

11. That the petitioner has not moved earlier before this Hon'ble Court and he has come for the first time in this regard.

It is, therefore, prayed that your Lordships may graciously be pleased to admit this application, issue rule NISI, calling upon the respondent and after hearing the

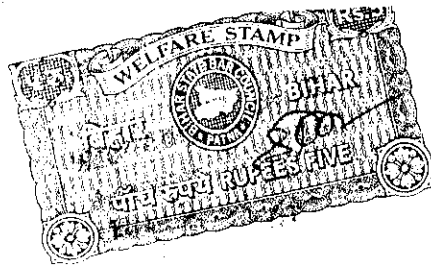
4
parties further be pleased to allow
Paragraph No.1 of this writ petition.

And/or

pass such other Order/orders as

your Lordships may deem fit and proper.

And for this, the petitioner shall ever pray.



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A f f i d a v i t.

I, Subhash Chandra Yadav, aged about 48 years, son of Shri Birendra Prasad Yadav, resident of Monalla-Jai Prakash Nagar, Ward No.6, P.S. and District-Madhepura, presently Incharge Headmaster, Middle School, Bhacol, Anchal-Madhepura, P.S. and District-Madhepura, do hereby solemnly affirm and state as follows:-

1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of this petition have been read by me, which I have understood and the statements made in Paragraph Nos. 1 to 3, 9 to 11 are true to my knowledge and those made in Paragraph Nos. 4 to 8 are based upon information, derived from the records of the case, which I believe to be true and rests are by way of submissions to this Hon'ble Court.
3. That the Annexures are True/photo copies of their respective originals.

(37572)

Subhash Chandra Yadav.
21-9-12

श्री बिरेन्द्र प्रसाद यादव
जिला शिक्षा अधिकारी
अंचल-मधेपुरा
कलकत्ता-800 014
दि. 29/11/2012

S. C. Yadav
Kumar

I solemnly affirm before me by.....
who is identified by.....
I have satisfied myself by examining
the deponent and he understands
the contents of the affidavit which has
been read over & explained to him
which he acknowledges to be correct.

Date 21/09/12
Advocate Oath Commissioner,
PATNA HIGH COURT

Answer - I

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कार्यालय-जिला शिक्षा पदाधिकारी, मधेपुरा।

(स्थापना शाखा)

कार्यालय-आदेश

विद्यालय शिक्षा समिति के अध्यक्ष/सचिव एवं ग्रामीणों द्वारा प्राप्त परिवार भंडा के आलोक में दिनांक-12.12.11 को मध्य विद्यालय मदौल की जांच की गयी। जांच उपरान्त प्रथम दृष्टया पाया गया कि मुख्यमन्त्री बालक/बालिका पोषाक योजना/विद्यालय विकास मद/मध्याह्न भोजन योजना में गड़बड़ी एवं परिश्रम की राशि से छात्र/छात्राओं को परिश्रम नहीं कराने के फलस्वरूप श्री ओमप्रकाश प्रभारी प्रधानाध्याक, मध्य विद्यालय मदौल, अंचल मधेपुरा को जिला शिक्षा पदाधिकारी, मधेपुरा के सहमति से तत्काल प्रत्येक से मिलवित किया जाता है। निलम्बन अवधि में श्री ओमप्रकाश प्रभारी प्रधानाध्याक, का मुख्यालय प्रखण्ड शिक्षा पदाधिकारी, कुमारखण्ड निर्धारित किया जाता है।

निलम्बन अवधि में श्री प्रकाश को बिहार सेवा संहिता की धारा 96 के अन्तर्गत जीवन-यापन भत्ता देय होगा। श्री ओम प्रकाश प्रभारी प्रधानाध्याक, को आदेश दिया जाता है कि विद्यालय के राष्ट्रीय शिक्षक को विद्यालय का संपूर्ण प्रभार सौंप कर, निर्धारित मुख्यालय में भोगदान सुनिश्चित करें।

आरोपित का नाम निर्धारित है।

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जिला कार्यक्रम पदाधिकारी

(स्थापना) मधेपुरा।

क्रमांक 10550/11 मधेपुरा दिनांक-13/12/11

प्रतिलिपि-कोषागार पदाधिकारी, मधेपुरा/प्रखण्ड शिक्षा पदाधिकारी, मधेपुरा/ प्रखण्ड शिक्षा पदाधिकारी, कुमारखण्ड/प्रधानाध्यापक-सह-निर्देशक, मधेपुरा/संबन्धित शिक्षक को सूचनाार्थ एवं आवश्यक कार्याार्थ प्रेषित।

13/12/11

जिला कार्यक्रम पदाधिकारी
(स्थापना) मधेपुरा।

13/12/11

13/12/11

कार्यालय, प्रखंड शिक्षा पदाधिकारी, महोपुरा

कार्यालय - महोपुरा

बिना कार्यक्रम पदाधिकारी (स्थापना), महोपुरा के आयांक-1055 (नं०) दिनांक-13-12-2011 के निर्देश अनुसार की गीम प्रकार (कमारी) प्रधानाध्यक्ष, महोपुरा विद्यालय महोपुरा प्रखंड-महोपुरा का निलम्बन आदेश में मुख्यालय प्रखंड शिक्षा पदाधिकारी, कुमारखंड निर्दिष्ट किया गया है। आज दिनांक-19-12-2011 के आदेश में प्रखंड शिक्षा पदाधिकारी कार्यालय कुमारखंड में गीमदान हेतु निर्दिष्ट किया जाता है। बच्चे निर्दिष्ट किया जाता है कि विद्यालय के वरीय शिक्षक को सम्पूर्ण प्रकार सौंपकर निर्धारित मुख्यालय में गीमदान सुनिश्चित करेंगे।

इस/

प्रखंड शिक्षा पदाधिकारी
महोपुरा

आयांक - 617 महोपुरा दिनांक - 19/12/11

प्रतिनिधि - प्रखंड शिक्षा पदाधिकारी, कुमारखंड/सुलभा सिंह
प्रमुख प्रधानाध्यक्ष को सूचनाएं एवं आवश्यक कार्रवाई प्रेषित।

प्रतिनिधि - बिना कार्यक्रम पदाधिकारी (स्थापना), महोपुरा को सूचनाएं सुनिश्चित।

इस/

प्रखंड शिक्षा पदाधिकारी
महोपुरा

16/11/12

12

कार्यालय, जिला शिक्षा पदाधिकारी, मधेपुरा ।

स्थापना शाखा

कार्यालय-आदेश

जिला कार्यक्रम पदाधिकारी, प्रारंभिक शिक्षा एवं उच्च शिक्षा अभियान, मधेपुरा के पत्रांक 577 दिनांक 30.6.12 से प्राप्त जांच प्रतिवेदन एवं जिला शिक्षा पदाधिकारी, मधेपुरा द्वारा सहमति के फलस्वरूप श्री सोम प्रकाश, निलंबित प्रभाषी प्रधानाध्यापक, उच्च विद्यालय, मदीत अंचल-मधेपुरा को निम्न शर्तों के साथ निलंबन से मुक्त किया जाता है ।

1. निलंबन की सजा दी जाती है ।
2. निलंबन अवधि का पूर्ण धैर्य देय होगा ।
3. निलंबन से पेंशनादि पर किसी भी प्रकार का प्रभाव नहीं पड़ेगा ।

जिला कार्यक्रम पदाधिकारी
स्थापना, मधेपुरा ।

ज्ञापक - 1663 - मधेपुरा, दिनांक 26/7/12

प्रतिक्रिया:- कौबाला पदाधिकारी, मधेपुरा/प्रधानाध्यापक-तह-निकासी एवं संबंधित प्रभाषी प्रधानाध्यापक को सूजनार्थ एवं आवश्यक कार्याथ प्रेषित ।

जिला कार्यक्रम पदाधिकारी
स्थापना, मधेपुरा ।
27/7/12

