

Sc 9
12/4/11

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

[Arising out of order dated 03.08.11 passed in CWJC. No.
12326 of 2011]

Kumari Sunita Sudha

-----Petitioner.

-Versus-

The State of Bihar and others

----- Contemnors/Opposite parties.

INDEX

Sl. No.	Particulars	Page No.
1.	An application under section 10 and 12 of Court of Contempt Act read with Article 215 of the Constitution of India with affidavit	1-16
2.	Annexure-1- A photo copy of order dated 23.11.11	17
3.	Annexure-2-A photo copy of representation dated 12.8.11	18
4.	Annexure-3 - A photo copy of application dated 02.04.13	19
5.	<u>VAKALATNAMA</u>	

GOVT. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
PATNA SCORE PATNA

COURT FEE

Authorization No. 2676



00000

Rs. 0000055

375464

INDIA

Zero*Zero*Zero*Zero*Zero*Five*Five*

बिहार
JUDICIAL

BIHAR

R.No. 0180/13
7584 4934412

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

[Arising out of order dated 03.08.11 passed in CWJC. No.
12326 of 2011]

In the matter of an
application under section
10 and 12 of Court of
Contempt Act read with
Article 215 of the
Constitution of India.

And

In the matter of:

Kumari Sunita Sudha W/o Chandradeo Ram R/o Village
Biri Ranpal, P.S. Udakishanganj, District- Madhepura.

-----Petitioner.

-Versus-

1. The State of Bihar.
2. Mr. Amarjeet Sinha, the Principal Secretary, Education department, Government of Bihar, Patna.
3. Mr. Ashutosh, the Director, primary Education, Government of Bihar, Patna.
4. Mr. Miland Sinha, District Education officer, Madhepura.
5. Mr. Mohan Sharma, the Block, Education Officer, Block Udakishunganj, District- Madhepura.
6. Prema Bharti D/o Laxmi Narayan Bharti R/o village Laxmipur, P.S. Udakishunganj, District- Madhepura.

----- Contemnors/Opposite parties.

To,

The Hon'ble Justice Ms. Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and ^{her} ~~his~~ companion Justices of the said Hon'ble Court.

The humble petition on behalf of petitioner named above;

Most Respectfully sheweth :-

1) That the instant petition is directed for initiation of an contempt proceeding against the guilty contemnors/opposite parties who appeared to have deliberately and willful violation the interim order dated 03.08.2011 by this Hon'ble court passed in C.W.J.C. No. 12236 of 2011 (Kumari Sunita Sudha V/s the State of Bihar and ors.) by the Hon'ble Mr. Justice Ashanuddin Amanullah one of the Hon'ble Judge of this court.

A photo copy of order dated ~~03.08~~ 03.08.11 is being annexed as Annexure-1 to this application.

- 2) That for clarity and brevity certain facts at the case are being given hereinunder.
- 3) That petitioner having qualification Intermediate total marks 361 and she belong to S.C. Caste; she is able to apply for the post of Block Teacher in view of the Bihar Panchayat Primary Teacher (Employment and service condition) Rule 2006 (hereinafter referred as a Rule 2006).
- 4) That the vacancy was issued on the post of Block Teacher, she applied on 31.08.2006 and she got receipt bearing no. 2635, thereafter application of the petitioner and other were examined by the committee and thereafter issued general notice for the coup selling and petitioner participated the counselling, which was held and their marksheet and others were verified, which is evidentially shown on the list of the counselling on the other

hand opposite party no.-06 did not choose to appear before the counselling, which was held on 29.09.2006.

5) That on the basis of the counseling, the case of the petitioner has been selected against the vacancy of S.C., on the post of Block Teachers and issued appointment letter dated 22.11.2007 by which the petitioner has posted as block Teacher as Uttkrish Middle School, Rampur Deharu, Block Udakishunganj, on the basis of the appointment letter petitioner submitted joining on 28.11.2007.

6) That soon after appointment of the petitioner, petitioner submitted joining and discharging duties to satisfaction of the authorities concerned till today.

7) That in view of the rule 2006, a panel was prepared, same was approved by the committee for appointment and appointment letter has been

issued to the name of the selected candidate, in view of the rule 18 of 2006 of the said rule by which clearly issued direction, if any person having aggrieved for selection or others, they shall filed a complain before the Dy. Development Commissioner within 30 days, within the aforesaid period no any persons filed complain against the petitioner even opposite party no. 6. Thus opposite party No.-06 has no case in view of government direction/order.

8) That it is admitted fact that the petitioner has been appointed on the post of Block Teacher against the vacant post of S.C. the case of opposite part, No.-06 has not been considered reason behind she could not appear before the counseling, in the result their name does not transpire in the final merit list.

9) That is admitted fact is that the opposite party no.-06, preferred the writ application bearing CWJC. No.

9601/2008 before this Hon'ble High Court, which was heard on 16.02.2010, same was withdrawn for filing an appeal before the District Teacher Employment Appellate Tribunal and thereafter opposite party no.-06 filed application before the Tribunal, inter-alia stated that he filed an application before the District Magistrate on 27.11.2007, whenever clause 18 of Rule 2006 clearly stated that any complain filed before the respondent D.D.C. but does not filed till filling writ application.

10) That notices was issued to the petitioner and others contemnors, inter-alia stated that in view the provision laid down in rule 206, no complaint filed by the opposite party no.-06 within the statutory period before statutory authority D.D.C., moreover she was not participated the counseling for this reason, her appointment was not consideration

rather case of petitioner was considered, if any aggrieved regarding selection of the petitioner opposite party should have filed complain before the statutory authority within the 30 days but does not filed, even not filed before D.M., if any filed after lapse of the years of appointment of petitioner.

- 11) That further needful to stated here that opposite party Block Education Officer, Udakishunganj has also submitted reply alongwith the record of the selection of the petitioner, inter-alia stated that the date of counseling was fixed on 26.09.2006 to 29.09.2006 as per direction issued by the department and further stated that the opposite party No.-06 did not appear before the counseling, respondent D.S.E. Madhepura issued a memo no. 139 dated 23.02.2007 by which specific direction issued that applicant, who does appear before the

counseling, their claim itself rejected, on the said light claim of the opposite party No.-06 has not considered, the case of the petitioner considered on the non available applicant of the trained teacher.

12) That learned member of the appellate authority could not go through the record neither considered the reply filed by the opposite party Block education Officer, Udakishunganj nor submission advanced by the petitioner, appellate authority could not hold that whether opposite party no.-06 filed any complain under as clause 18 of Rule 2006 but go through the record and found that during the period from 26.09.206 to 29.09.206, said very dated was fixed for counselling for trained applicant and hold that the petitioner case was considered as a trained but perusal of the chart Lordship will find that her and alongwith other

untrained applicant's case was considered as untrained and further hold that the opposite party no.-06 having higher marks to the petitioner, her case should be considered but did not consider as whether she filed an application within the statutory period before the authority, answer is certainly not, hence impugned order is illegal.

13) That further needful to stated here that in light of Rule 2006, case of petitioner and other considered, hence claim of opposite party no.-06 have to considered, as whether she filed application view of the clause 18 of rule 2006, but she did not filed except fake and concocted document, thus notification no. 3716 dated 23.10.208 does not applicable to case of opposite party no.-06, if any she file application before the statutory authority same was pending for due consideration, then matter of

the opposite party no.-06 has to be considered, thus in view of the above submissions the order of the tribunal is bad in law and fit to be set aside.

- 14) That the case of petitioner is that the petitioner having qualification I.A. untrained and belongs to S.C. category and her case was considered against the vacancy of S.C. untrained teachers, even in counseling her case was considered as untrained and from perusal of the chart, lordship will find that the column of the trained is vacant and years/session mentioned of I.A., as similarly situated untrained person mentioned but sessions has been given only for intermediate not for training, not only same manner others case was considered as Neelam Kumari, Pawan Kumar Ranjan thus allegations is illegal same has been clarified by the reply submitted by the B.E.O., Udakishunganj.

15) That the opposite party no.-06 made complaint after lapse of more than year when she was not participate the counselling, thus her case is not tenable for consideration at all thus impugned order is fit to be set aside.

16) That against her illegal removal by the appellate authority Madhepura petitioner filed C.W.J.C. No. 12326 of 2011 (Kumari Sunita Sudha Vrs. The State of Bihar and others). On 3.8.11 Hon'ble court heard this matter and issued direction to the opposite party not to disturb the petitioner from discharging her duty as Block teacher at Middle School, Rampur Dehra in the Madhepura District. (A copy of order has already been annexed as Annexure-1 to this application).

17) That thereafter petitioner submitted a application along with order passed by Hon'ble

court before the Block Education officer Udakishunganj, District- Madhepura on 12.8.2011.

A photo copy of representation dated 12.8.11 is being annexed as Annexure-2 to this application.

18) That the petitioner is still working after initial joining but their salary has not been paid by the contemnor/opposite party from October 2011 till date.

19) That it is stated here that again on 02.04.13 the petitioner filed representation before the Block Education officer and requested him to take appropriate action with regard to arrear of salary as well as current salary but till date no appropriate action has been taken in this regard.

A photo copy of application dated 02.04.13 is being annexed as Annexure-3 to this application.

- 20) That it is humbly submitted here that the opposite party did not pass any order/direction after several application filed by petitioner in the light of order dated 03.8.11 passed in C.W.J.C. No. 12326 of 2011.
- 21) That the opposite parties/contemnors are sitting tight over the matter has no respect for the court of law which is well within their knowledge.
- 22) That the action of opposite party/contemnors are also not paying the salary of the petitioner after staying of order passed by the Appellate Authority Madhepura is contemnors and hence the opposite parties are liable to be punished severally as they have got no respect for the order of this Hon'ble court by which they are to be fully committing contempt of court.

It is therefore, prayed that your Lordships may graciously be pleased to issue notice to the guilty opposite party/contemnors as to why contempt proceeding be not initiated against them for violation of order dated 3.08.11 and after hearing the parties be further pleased award suitable punishment to the concerned opposite party/contemnors for willful violation of order dated 03.08.11 in CWJC. No. 12326 of 2011 and further be pleased to directed to comply the order in quash in true spirit.

AND/OR

Pass such order(s) as your Lordships may deem fit and proper.

And for this petitioner shall ever pray.

AFFIDAVIT

I, Kumari Sunita Sudha aged about 43 years, W/o Chandradeo Ram R/o Village Biri Ranpal, P.S. Udakishunganj, 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 application have been read over and explained to me in Hindi, which I have fully understood and they are true to my knowledge and belief.
- 3) That the Annexures are the true/ Photo copies of their respective originals.

कुमारी सुनीता सुधा

DEPARTMENT OF POST
BIHAR CIRCLE

भारत

TRIP DUTY

00000

बिहार
JUDICIAL

1719493

COURT FEE



000000002

372403

BIHAR

AUTH NO. 3185 DT. 16/12/2008

INDIA

**Zero*Zero*Zero*Zero*Zero*Zero*Two*

17

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL WRIT JURISDICTION CASE No.12326 of 2011

Kumari Sunita Sudha
Versus
The State Of Bihar & Ors.

2. 03.08.2011

Heard learned counsel for the petitioner as well as learned counsel for the State.

The writ petition has been filed against the order dated 22.06.2011 passed by the District Teachers Employment Appellate Authority, Madhepura in Appeal Case No. 4 of 2010 by which the appointment of the petitioner has been cancelled with further direction to appoint the private respondent. Learned counsel for the petitioner submits that the order has been passed without affording due opportunity of hearing to the petitioner.

Let notices be issued to respondents no. 9 and 10 both under registered cover with A/D as well as ordinary process for which requisites etc. must be filed within one week from today.

List this case immediately upon service of notice.

The petitioner shall not be disturbed, till further orders, from working on the post of block teacher at Middle School, Rampur Dehru in the District of Madhepura.

Anand Kr.

Sd/- Ahsanuddin Amanullah, J.)

CERTIFIED TO BE TRUE PHOTO COPY

P. K. Meher
10.8.2011
96147232

For Joint Registrar (J) 10.8.11
Patna High Court
Notarized 11576 Act 1 of 1879

सेवा में
श्री मान

परबंड शिक्षा पसार पदाधिकारी
उदा. क्रिश्चन गंज मधेपुरा,

अपील सं. 4/2010

प्रेमा भारती - - - - - बनाम - - - - - अपीलकर्ता
कुमारी सुनीता सुधा - - - - - उत्तरवादी
विषय - उत्तरवादी की ओर से प्रस्तुत माग
में दिनांक - 22-06-2011 के पारित आदेश
के क्रियान्वयन को स्वचालित रखने हेतु
आवेदन।

प्राप्त किया,
12.08.2011

श्री मान / सादर निवेदन है, कि
श्री मान द्वारा दिनांक - 22-06-2011 के पा
अंतिम आदेश की उच्च न्यायालय पर
में दायर की मामले का सुनवाई हो
है, केस नम्बर - 12326 - 2011 है।
03.08.2011 है।

अतः श्री मान से सादर निवेदन है, कि
उच्च न्यायालय द्वारा उ स्टे ओडर का ध्या
प्रति दे दिए हैं। पारित आदेश के क्रियान्वयन
को स्वचालित रखने की असीम कृपा की जाए
आपके किरवासी भातिका

कुमारी सुनीता सुधा
सं. क्रि.
उत्कृष्ट मध्य वि० राम
देहरा दुर्ग, मधेपुरा।

सेवा में

Annule-3

19

प्रखण्ड शिक्षा पदाधिकारी

उदाकिशुनगंज मधेपुरा

विषय—CWJC No- 12326/2011 दिनांक 03.08.11 को पारित आदेश के संबंध में

महाशय

उपरोक्त विषय के संबंध में निवेदन पूर्वक कहना है कि मैं कुमारी सुनीता सुधा पति श्री चन्द्रदेव राम ग्राम बीड़ी रणपाल थाना—उदाकिशुनगंज जिला मधेपुरा का स्थायी निवासी हूँ। मैं वर्ष 2007 में प्रखण्ड शिक्षिका के रूप में उत्क्रमित म0वि0 रामपुर डेहरू उर्दू में नियमित रूप से कार्य कर रही हूँ। मेरे नियोजन को जिला शिक्षक अपीलीय प्राधिकार मधेपुरा ने मेरे नियोजन को अवेध मानते हुए प्रतिवादी प्रेमा भारती का नियोजन का आदेश निर्गत किये। मैंने माननीय उच्च न्यायलय पटना में CWJC No- 12326/2011 (कुमारी सुनीता सुधा बनाम बिहार सरकार एवं अन्य) दायर की। दिनांक 03.08.11 को माननीय उच्च न्यायलय पटना में मामले की सुनवाई करते हुए मुझे मेरे पद पर बने रहने का आदेश निर्गत करते हुए प्रतिवादी प्रेमा भारती को माननीय उच्च न्यायलय में अपना पक्ष रखने हेतु नोटिस निर्गत किये। मैं नियोजन के विधि से आजतक अपने कर्तव्य का निर्वहन कर रही हूँ मगर मेरे दकाये वेतन माह अक्टुबर 2011 से आजतक का भुगतान नहीं किया गया है।

अतः महाशय से निवेदन है कि मैं नियमित रूप से कार्य कर रही हूँ साथ ही साथ मेरे दकाये वेतन निर्गत करने हेतु उचित कदम उठाया जाय। इस कार्य हेतु मैं महाशय की अभारी रहूंगी।

आपका विश्वास भाजीका

कुमारी सुनीता सुधा ~~कुमारी सुनीता सुधा~~

उ0म0वि0 रामपुर डेहरू उर्दू

प्रखण्ड—उदाकिशुनगंज

जिला—मधेपुरा

02.04.2013

अनुलग्नक

1. माननीय उच्च न्यायलय द्वारा पारित आदेश दिनांक 03.08.11