

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7422 of 2020

Nazir Hussain Son of Md. Abbas, Resident of Village and P.O.-Sakri Saraiya,
P.S.-Kudhani, O.P.-Turki, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The Bihar State Madarsa, Education Board, through the Examination Controller, Patna.
4. The District Programme Officer (Establishment) District Vaishali.
5. The Secretary, Block Teacher Niyojit Unit General Cum Block Development, Officer, Goraul, District Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Piyush Kumar, Advocate
For the Respondent/s : Mr. Jitendra Kumar Roy, SC 13

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 09-02-2021

Heard learned counsel for the petitioner and learned
Standing Counsel no. 13 for the State.

The petitioner has filed the instant application for the
following reliefs :

- i. For quashing the order as contained in memo no. 2359 dated 29-11-2019 issued under the signature of respondent no. 5 whereby and whereunder the petitioner has been terminated from the service pursuant to the direction given by respondent no. 4.
- ii. Also for commanding the respondents to reinstate the petitioner to the post of



panchayat teacher of middle school Islampur, Block Goraul, District-Vishali and grant all consequential benefits to the petitioner w.e.f. the date of termination.

iii. And for any other relief(s) for which petitioner is found to entitled in view of the facts and circumstances of the case.”

The case of the petitioner in brief are that pursuant to an advertisement published for appointment of Block Teachers, the petitioner having requisite qualification filed an application for appointment as Block Teacher (Untrained) in the subject of Urdu. He was selected. The petitioner was appointed by order contained in letter no. 744 dated 28.12.2010 issued under the signature of the Executive Officer, Block Panchayat Samiti, Goraul and was posted in Middle School, Islampur where he joined.

The petitioner having acquired his certificate of Molvi from an Islamic institute namely Jamia Rahmania Hamdia Pokhaira (Sharif) District Sitamarhi in the year 2005, he submitted the said certificate of Molvi at the time of his selection. Since his joining in the year 2010, he has been discharging his duties to the satisfaction of all concerned.

The petitioner received a show cause notice dated



3.9.2019 stating therein that the certificate having been found to be forged, an FIR had been registered and the petitioner was asked to file his reply to the said show cause notice. The petitioner filed his reply as contained in Annexure 4. Whereafter the order impugned dated 29.11.2019 was passed under the signature of the respondent no. 5 terminating the services of the petitioner. It is against this order that the instant writ application has been preferred.

It is further submitted by learned counsel for the petitioner that a counter affidavit has been filed on behalf of the respondent no. 4 to which the petitioner has also filed a rejoinder. It is submitted that the points raised by the petitioner in his reply to the show cause has not been considered in the order impugned. With respect to the merits of the case it is submitted that from perusal of the relevant Rules of the year 2012 it would transpire that for the appointment of teachers of Urdu in middle school it talks about the requirement of a candidate having obtained his degree of Molvi from an institute recognized by the Bihar Madarsa Education Board. The petitioner having been appointed in the year 2010, would be governed by the 2008 Rules which did not have any such condition. As per Rule 6 of the 2008 Rules the only



requirement was that degree holder of Molvi would be appointed in Urdu and as per Rule 8(ka)(2) such degree holders in Molvi would not be eligible for appointment as general teacher.

Learned Standing Counsel no. 13 appearing for the State submits that as per the letter dated 19.8.2019 (Annexure B) to the counter affidavit of respondent no. 4 the institute in question i.e. the Jamia Rahmania Hamdia Pokhraira (Sharif) not being recognized, did not have the authority to issue mark sheet/certificate and thus, the petitioner having obtained his appointment on such forged certificate, an FIR has been registered against the petitioner. It is submitted that there is no merit in the writ application and the same is fit to be dismissed.

Having heard learned counsel for the parties and taking into consideration the facts of the case, it transpires that it is not in dispute that on the date the petitioner obtained his certificate of Molvi in the year 2005 from Jamia Rahmania Hamdia Pokhraira (Sharif) in the District of Sitamarhi, the institute in question was not recognized. The petitioner could not have obtained appointment as Molvi on the basis of said certificate obtained by the petitioner from an unrecognized institute and as such the Court finds no illegality in the impugned order dated



29.11.2019 passed by the respondents terminating the services of the petitioner.

There being no merit in this application, the same is dismissed.

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

