

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No.4642 of 2017

Sanatan Hansda, son of Sitaram Hansda, resident of Rotedah, Horina, P.O. + P.S. Bhalki Potka, Bara Bhalki Potka, Potka, District East Singhbhum

.... Petitioner

Versus

1. State of Jharkhand through its Secretary, Ministry of Human Resource Department having its office at Project Bhawan, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi
2. Commissioner, East Singhbhum (Kolhan Region), having its office at P.O. + P.S. + District Chaibasa
3. Deputy Commissioner, East Singhbhum, having its office at P.O. + P.S. + District Jamshedpur
4. District Superintendent of Education, East Singhbhum, having its office at P.O. + P.S. + District Jamshedpur
5. Block Extension Education Officer, Ghatshila, East Singhbhum, having its office at P.O. + P.S. Ghatshila, District Jamshedpur
6. School Managing Committee, Primary School, Phuljhari Potka, P.O. + P.S. Potka, East Singhbhum through its President

.... Respondents

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Abhay Kumar Mishra, Advocate

For the Respondents : Mr. Ashish Shekhar, A.C. to S.C. (L&C) II

05/31.08.2020 Heard Mr. Abhay Kumar Mishra, learned counsel for the petitioner and Mr. Ashish Shekhar, learned counsel for respondents-State.

This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

The petitioner has preferred this writ petition for quashing the order dated 15.03.2017 passed by the Divisional Commissioner, Kolhan, Chaibasa whereby the appeal preferred by the petitioner has been rejected and order of punishment dated 20.08.2016 passed by District Superintendent of Education, East Singhbhum has been affirmed whereby the petitioner has been awarded withholding five increments with non-cumulative effect.

Mr. Abhay Kumar Mishra, learned counsel for the petitioner submits that the petitioner is an Assistant Teacher working at Primary School, Phuljhari, Sub Division Potka within the District of East Singhbhum, Jamsedpur. A complaint has been forwarded by the Mukhyamantri Jan Sambad being numbered as 2016/1780 stating therein that a frivolous complaint has been received wherein it has been stated that the petitioner do not come to school

regularly. Pursuant to that a departmental enquiry was conducted and without issuing any second show cause, the said punishment has been inflicted upon the petitioner. He draws the attention of this Court towards enquiry proceeding contained in Annexure-7, Page 35 of this writ petition wherein the enquiry officer has stated that the petitioner is the only person in that school who is looking after all the requirement of school and 2-3 persons have disclosed this fact before the enquiry officer and thus it appears that the charges against the petitioner has not been proved. In spite of this fact stated in the enquiry report, the enquiry officer has given his suggestion that petitioner can be inflicted punishment to censure.

On the other hand, learned counsel appearing for the respondents-State submits that the enquiry officer has not exonerated the petitioner whereby he suggested some punishment. In that view of the matter, there is no illegality in the impugned order.

In view of above facts, the Court has considered the argument of learned counsel for the parties and perused the Annexure-7 which is enquiry report wherein enquiry officer has stated everything in favour of the petitioner even to the effect that the petitioner is only person, who is looking after the school. Two-three persons of the school have also supported this fact that the petitioner is only person who is looking after the affairs of the school. In that view of the matter, the charge against the petitioner has not been proved. It is not in the domain of enquiry officer to suggest any punishment when he himself is not able to give the conclusion that the charges against the petitioner has been proved. It was incumbent upon the respondents to issue second show cause before passing of such punishment order which has not been done in this case.

As a cumulative effect of this discussion, the impugned order cannot sustain in the eye of law. Accordingly, the impugned order dated 15.03.2017 passed by the Divisional Commissioner, Kolhan, Chaibasa and order of punishment dated 20.08.2016 passed by District Superintendent of Education, East Singhbhum, are hereby, quashed.

This writ petition stands allowed and disposed of.

(Sanjay Kumar Dwivedi, J.)

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