
(2008) 08 PAT CK 0086
In the Patna High Court
Case No : C.W.J.C. No. 11372 of 2008

Shyam Babu Kumar

APPELLANT

Vs

State of Bihar and others

RESPONDENT

Date of Decision : 28-08-2008

Acts Referred:

Citation : (2009) 120 FLR 375 : (2008) 4 PLJR 132

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned Counsel for the petitioner and the State. The short submission made in this application is that the impugned order of termination is bad on two counts. Firstly, the statutory authority, the Block Development Officer has abrogated the statutory powers under Rule 18 of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 by acting at the dictates of the Deputy Development Commissioner, which is apparent on the face of the order. Secondly, the termination is with retrospective effect, which is not permissible in law.

2. The law stands well settled that where the statutory authority acts without independent application of mind at the behest of another, the order is vitiated in law. The law stands equally well settled that there can be no retrospective termination.

3. The impugned order dated 1.7.2008 is, accordingly, quashed. The writ application is allowed. This shall not prevent the statutory authority from proceeding afresh in accordance with law.

4. There is large number of writ applications pending before this Court assailing the orders of termination on the ground that the same had not been passed by the statutory authority, the Block Development Officer. This Court expects that the respondent-State authorities shall take note of the present order and the

position in law and appropriate instructions are issued in all such matters including the stand to be taken before this Court so that no frivolous contest are made by the State in such matters burdening this Court with unnecessary litigations.