

(2009) 04 PAT CK 0130
In the Patna High Court
Case No : CWJC No. 8800 of 2008

Sunil Kumar Ojha and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 28-04-2009

Acts Referred:

Citation : (2009) 3 PLJR 48

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned Counsel for the petitioners and the State. The petitioners were appointed as Shiksha Mitra on 15.2.2006 and acquired the status of Panchayat Shikshak on 1.7.2006 when the statutory rules regulating appointment and service conditions of Panchayat Teachers came to be promulgated. From 1.7.2006 under Rule 18 thereof, the Block Development Officer was the competent authority to examine issues of appointment of Panchayat Shikshak. The earlier authority of the District Magistrate to examine appointment of Shiksha Mitra thereby came to an end.

2. It is the case of the petitioners that the Block Development Officer by his report dated 11th October, 2007 has held that there was no illegality in the appointment of the petitioners. The submission is, that contrary thereto, the District Magistrate ordered an inquiry by the District Education Officer who submitted a report in pursuance of which directions were issued to the Block Development Officer, who issued consequential directions on 30.4.2008 to the Panchayat Sachiv when the impugned order of termination dated 2.5.2008 has followed.

3. This Court on 6.4.2009, had required the respondents to place on record the order of the Block Development Officer dated 30.4.2008, to verify whether he acted by independent application of mind or abdicated his statutory power by

acting at the behest of the District Magistrate to issue the orders of termination mechanically.

4. The counter affidavit of the respondents has now placed the order dated 30.4.2008 on record. From a bare perusal of the same it is apparent that it has been issued mechanically without application of mind at the behest of the District Magistrate only.

5. Learned Counsel for the petitioners in the context rightly relies upon a judgment of this Court in the case of Shyam Babu Kumar Vs. State of Bihar and others, of the effect of an order by a statutory authority at the behest of another. For reasons of like discussion contained in the judgment that an order issued by statutory authority at the dictates of other is vitiated in law, the impugned order dated 2.5.2008 is set aside. The writ application stands allowed in all aspects in terms of the order of statutory authority dated 11.2.2007 unless the same has been recalled, annulled/modified by the statutory authority himself in accordance with law.