

(2009) 05 PAT CK 0070
In the Patna High Court
Case No : LPA No. 448 of 2009

The State of Bihar and Others

APPELLANT

Vs

Yogendra Rai

RESPONDENT

Date of Decision : 22-05-2009

Acts Referred:

Citation : (2009) 3 PLJR 907

Hon'ble Judges : Shiva Kirti Singh, Acting C.J.; Mihir Kr. Jha, J

Bench : Division Bench

Advocate : Lalit Kishore and Prabhakar Tekriwal, for the Appellant; Chittaranjan Sinha, Umesh Kumar Mishra, Suresh Prasad Singh No. 1 and Vitesh Kr. Singh, for the Respondent

Judgement

1. Heard learned counsel for the appellants State of Bihar and learned counsel for the private respondents in various appeals. The limitation in preferring these appeals, after hearing the parties and considering the facts stated in the connected applications, is condoned.

2. On going through the orders under appeal, we find that the writ courts have interfered with the orders of termination challenged by the writ petitioners only on the ground that the apex court had permitted the terminated employees, in spite of valid termination orders in 1985, to continue in service on the concerned posts till the respondent-State completes the process of selection afresh.

3. Presently the State has resorted to remove the concerned employees afresh without completing the process of selection afresh in which the affected employees who have continued could also be considered. We do not find any illegality or error in the orders passed by the writ courts and, hence, we have no option but to dismiss these appeals preferred by the State of Bihar. They are dismissed accordingly.

4. Before parting with these appeals, we must express our anguish over the inaction of the State-respondents in not completing the process of selection

which was required to be done in the light of the order of the Supreme Court dated 30.9.1986 passed in SLP Nos. 12061-70 of 1986. On account of such inaction by the concerned authorities of the State of Bihar, persons like the writ petitioners, whose services were terminated in 1985, have managed to continue to work on their respective posts for more than two decades and enjoy all the perks. Their termination was found valid long back by the Division Bench of this Court as well as by the apex court as they did not have even the necessary qualification in terms of the Recruitment Rules for the post of Teacher in Basic School. It is understandable that in such a situation the vested interests are expected to exert pressure and abort the selection process again. Hence, the State authorities are directed to complete the selection process in accordance with law and the aforesaid order of the Apex Court which still governs the field, within a period of six months from today. Failure of this time limit will be viewed seriously as an act of gross contempt. The State shall also be at liberty to enquire and hold responsible the officials who were earlier required to complete the selection process but failed to do so for no good reason.