

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 209 of 2014

IN

Civil Writ Jurisdiction Case No. 13889 of 2012

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Smt. Ranju Devi @ Ranju Kumari, wife of Shri Pawan Kumar Jha (Daughter of Shri Avtar Jha), resident of Village- Jaideopatti, Police Station- Ghanshyampur, District- Darbhanga, at present posted on the post of Panchayat Teacher, Nav Srijit Primary School, Musalman Chamar Tol, Parari, Police Station- Ghanshyampur, District- Darbhanga

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
2. The Director (Primary Education), Education Department, Government of Bihar, Patna
3. The District Magistrate, Darbhanga.
4. The District Education Officer, Darbhanga.
5. The District Programme Officer (Establishment), District- Darbhanga
6. The Block Development Officer, Ghanshyampur Block, District- Darbhanga
7. The Circle Officer, Ghanshyampur, District- Darbhanga
8. The Block Education Parsar Officer, Ghanshyampur Block, District- Darbhanga.
9. Smt. Kamini Devi, wife of Sri Sudhir Kumar Singh at present Mukhiya, Gram Panchayat Raj, Jaideopatti Panchayat, Police Station- Ghanshyampur, District- Darbhanga
10. The Panchayat Secretary, Gram Panchayat Raj, Jaideopatti Panchayat, Police Station and Block- Ghanshyampur, District- Darbhanga.
11. Smt. Kumari China Singh, W/O Sri Randhir Kumar Singh, resident of Village- Parari, Police Station- Ghanshyampur, District- Darbhanga (Bihar).

.... Respondents

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Appearance :

For the Appellant : Mr. T.N. Maitin, Sr. Advocate.
Mr. Kripa Nand Jha, Advocate.

For the Respondent No. 11 : Mr. Ashok Kumar Dubey, Advocate.
Ms. Mamta Vijya, Advocate.

For the State : Mr. M. Nasrul Huda Khan, AC to SC 18
Mr. Md.Irshad, AC to SC 18

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 31-03-2015

This appeal is preferred by the 11th Respondent in CWJC

No. 13889 of 2012. The writ petition was filed by the 11th respondent herein. For the sake of convenience the parties are referred as arrayed in the writ petition.

A notification was issued by the Gram Panchayat Jaideopatti of Darbhanga District in July, 2006 proposing to appoint Panchayat Teachers. In response to that, petitioner, 11th Respondent, and various others were applied. Counseling has taken place on 12.10.2006 and four candidates were selected against four un-reserved posts for women. However, one candidate did not join. In her place, a candidate by name Smt. Kumari China Singh was offered appointment. It is stated that Smt. Kumari China Singh joined the post, but she resigned shortly, and in her place the writ petitioner was offered appointment. However, on the ground that the petitioner did not turn up, the next candidate, the 11th Respondent (appellant) was offered appointment and she joined on 25.10.2007. The writ petitioner submitted objections on 28.12.2007 before the Block Development Officer, Ghanshyampur. In the meanwhile, the Block Development Officer cancelled all the appointments through a common order dated 10.05.2008. Several writ petitions were filed and in compliance with the orders passed therein, the selected candidates were allowed to continue in their respective posts.

The 11th Respondent approached this Court by filing a writ petition aggrieved by the order of cancellation of

appointment and the same was disposed of leaving it open to her to approach the District Teachers' Appellate Tribunal. That was done, and the Tribunal passed order dated 26.10.2009 upholding the appointment of the 11th Respondent.

The petitioner filed CWJC No. 8516 of 2008 aggrieved by her non-appointment. The petitioner has withdrawn the writ petition on 11.08.2011 reserving to her, the right to challenge the order dated 26.10.2009 passed by the Tribunal upholding the appointment of the 11th Respondent. It is in that connection, that the petitioner filed CWJC No. 13889 of 2012. The learned Single Judge allowed the writ petition and has set aside the order dated 26.10.2009 passed by the Tribunal and remanded the matter for fresh consideration and disposal in accordance with the observations made in the order. The same was challenged through the present appeal.

Heard Sri T.N. Maitin, learned Senior counsel for the appellant, Sri Ashok Kumar Dubey, learned counsel for the Respondent No. 11 and Sri M.Nasrul Huda Khan, learned Assistant Counsel to Standing Counsel -18 for the State.

The appointments that were made in pursuance of the notification issued in July, 2006 were set aside en-masse, at the relevant point of time by the Block Development Officer. Though such orders have been set aside by this Court, the dispute between the petitioner on the one hand and the 11th Respondent on the other hand was some what different. It was not about the

validity of selection and the conditions of recruitment.

The 11th Respondent, i.e. the appellant does not dispute that the writ petitioner was placed above her, in the merit list. She got the appointment almost in default on account of the alleged failure of the writ petitioner, to turn up. Therefore, the entire controversy as to whether there was a proper offer to the writ petitioner and there was default on her part in joining the post. It is for verification of that matter that the learned Single Judge remanded the matter to the Tribunal. We do not find any basis to interfere with the order passed by the learned Single Judge. However, we direct that the Tribunal confine the verification of the matter, only to the question as to whether there was a valid communication to the writ petitioner i.e. Smt. Kumari China Singh and whether there was failure on her part, to report.

The appeal is disposed of accordingly.

The Interlocutory Application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

Chandran/Md.Ibrarul

(Vikash Jain, J)

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