

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13912 of 2014

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1. Manju Kumari wife of Sri Bhushan Kumar, Daughter of Sri Shyamdeo Prasad, Resident of Village- Sridhar Bigha, P.O.- Nanand, P.S.- Silao, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Nawada
3. The District Superintendent of Education, Nawada
4. The Block Education Officer, Nawada
5. The Block Education Extension Officer, Nawada
6. The Panchayat Sachiv, Gram Panchayat, Kena
7. Sri Yamuna Prasad son of Late Chandra Bhushan Prasad @ Chamari Yadav, resident of village- Nirmal Bigha, P.O.- Bhadokhara, P.S.- Muffasil, District- Nawada, Mukhiya Gram Panchayat Raj, Kena
8. Renu Kumari, wife of Rakesh Ranjan, resident of Professor Colony Line Par, Mirjapur, P.S.+District- Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Singh
For the Respondent/s : Mr. Prabhat Kumar Verma, AAG 5
Mr Kishore Kumar Thakur

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

3 13-01-2015 Heard counsel for the petitioner, counsel for the private respondent and the State.

Petitioner is seeking quashing of Annexure-6, which is an order passed in Case No.161 of 2010 by the District Teachers Appointment Appellate Authority, Nawada, who has passed an order contrary to the interest of the present petitioner without giving him an opportunity of hearing. Petitioner has categorically stated in the writ application that even though she was supposedly made a party respondent by the present



respondent in her complaint filed before the Tribunal, the Tribunal at no point of time issued any notice or gave her any opportunity of hearing. An ex parte order has been passed by the Tribunal detrimental to the interest of the petitioner in the sense that even though she was continuing as a Panchayat Teacher for many years, now the private respondent has been ordered to be appointed at the cost of the petitioner.

Time was granted to respondent no.8 to file a counter affidavit and rebut the position so taken. She has failed to do so. She prays for additional time to obtain certified copy of the order-sheet etc. to verify the position.

Counsel for the petitioner has made his job easy by producing certified copy of the entire order-sheet where there is no reflection that any notice was issued upon the present petitioner before the adjudication. Even a look at the order passed by the Tribunal does not reflect that the petitioner was ever heard or was given an opportunity to place her case before the Tribunal.

In view of the same, the impugned order contained in Annexure- 6 is quashed. Matter is remanded back to the Tribunal for fresh adjudication.

It is made clear that since the private respondent was appointed by virtue of the order passed by the Tribunal, which is

a non est order, she cannot continue till a fresh adjudication is made. The Tribunal will adjudicate the matter with the assistance of the parties within a reasonable time frame so that the post does not remain vacant indefinitely.

Writ is allowed.

(Ajay Kumar Tripathi, J)

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