

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.992 of 2014 IN Civil Writ Jurisdiction Case No. 796 of 2014

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1. Pampam Kumari, daughter of Mahesh Prasad Singh, Resident of Village - Baha Chowki, P.S. Dharhara, District - Munger, at present Panchayat Teacher, Newly Established Primary School, Block Campus, Mushahari Tola, Halsi, P.S. Halsi, District - Lakhisarai
 2. Kanchan Kumari, daughter of Krishna Murari Singh, resident of village - Halsi, P.S. Halsi, District - Lakhisarai, at present Panchayat Teacher, Newly Establishment Primary School, Block Campus, Mushahari Tola, Halsi, P.S. Halsi, District - Lakhisarai
 3. Nitu Kumari, daughter of Bhagirath Singh and wife of Raushan Kumar Resident of Village - Mohanpur, P.S. Ramchandrapur, District - Lakhisarai, at present Panchayat Teacher, Primary School Baghaur, Mushahari, P.S. Halsi, District Lakhisarai
 4. Shashi Bhushan, son of Harikant Singh, Resident of village - Dumra Ward No.2, P.S. Barahia, District - Lakhisarai, at present Panchayat Teacher, Newly Establishment Primary School, Tarhari Mor, Mushahari Halsi, P.S. Halsi, District Lakhisarai
 5. Anupama Kumari, daughter of Sri Ram Singh, resident of Village - Halsi, P.S. Halsi, District - Lakhisarai, at present Panchayat Teacher, Baghaur, Mushahari, P.S. Halsi, District Lakhisarai
 6. Nisha Devi Daughter of Shyam Sunder Singh Resident of village - Halsi, P.S. Halsi, District - Lakhisarai, at present Panchayat Teacher, Newly Establishment Primary School, Tarhari Mor, Mushahari, P.S. Halsi, District - Lakhisarai
 7. Awadh Kishore Son of Late Bhuttu Mahto Resident of village - Karnpura, P.S. Suryagarha, District - Lakhisarai, at present Panchayat Teacher Primary School, Bandol, P.S. Halsi, District - Lakhisarai
 8. Amod Kumar Son of Basuki Singh Resident of village - Tilakpur, P.S. Chanan, District - Lakhisarai, at present Panchayat Teacher Primary School, Baghaur, Mushahari, P.S. Halsi, District - Lakhisarai
 9. Dinesh Kumar Paswan Son of Guleshwar Paswan Resident of village - Kundar, P.S. Chanan, District - Lakhisarai, at present Panchayat Teacher, Newly Established Primary School, Konagdih Mushahari, P.S. Halsi, District - Lakhisarai
 10. Rubi Kumari Daughter of Ram Kumar Resident of Village - Bandol, P.S. Halsi, District - Lakhisarai, at present Panchayat Teacher, Primary School, Mahsoni, P.S. Halsi, District - Lakhisarai
 11. Anil Kumar Son of Kapildeo Mahto Resident of village - Kandi, P.S. Halsi, District - Lakhisarai, at present Panchayat Teacher, Primary School, Mahsoni, P.S. Halsi, District - Lakhisarai
 12. Geeta Kumari Daughter of Ravi Ranjan Sanehi Resident of Village - Intabandh, P.S. Chandradeep, District - Jamui, at present Panchayat Teacher, Primary School, Kongadih, Mushahari, P.S. Halsi, District - Lakhisarai
 13. Nagina Paswan Son of Sewak Paswan Resident of Village - Guaharnagar (Khutkat), P.S. Sikandra, District Jamui, at present Panchayat Teacher, Primary School, Neema, P.S. Halsi, District - Lakhisarai
 14. Sonam Kumari Daughter of Shyam Kumar Chandrawanshi Resident of Village - Baghaur, P.S. Halsi, District - Lakhisarai, at Present Panchayat Teacher, New Establishment Primary School, Kongadih Mushahari, P.S. Halsi, District - Lakhisarai.

.... Appellants

Versus

1. The State of Bihar through the Director, Primary Education, Bihar, Patna
2. The District Magistrate, Lakhisarai
3. The District Education Officer, Lakhisarai
4. The District Programme officer, Lakhisarai
5. The Block Development Officer, Halsi, District - Lakhisarai
6. The Block Education Officer, Halsi, District - Lakhisarai
7. Sri Rakesh Kumar Son of Late Chhotelal Ram Resident of Mohalla - Sadipur Chhoti Durga Asthan, P.S. Kotwali, District - Munger, Ex- Panchayat Sachiv, Gram Panchayat, Halsi, District – Lakhisarai at present Panchayat Sachiv, Suryagarha, P.S. Suryagarha, Dist- Lakhisarai.
8. Sri Rahul Sharma Son of Pramod Sharma Resident of village - Halsi, P.S. Halsi, District - Lakhisarai, Ex - Mukhia, Gram Panchayat, Halsi, P.S. Halsi, District - Lakhisarai
9. Raghunath Yadav son of Late Bihari Yadav resident of village - Halsi, P.S. Halsi, District - Lakhisarai
10. Upendra Ram Son of Ram Lal Ram Resident of village - Halsi, P.S. Halsi, District - Lakhisarai, at present Panchayat Teacher Primary School Konagdi, Mushahari, P.S. Halsi, District - Lakhisarai

.... Respondents

Appearance :

For the Appellants : Mr. Rajendra Pd. Singh, Sr. Advocate.
Mr. Arun Kumar, Advocate.
Mr. Ram Vinay Prasad Singh (Sanjay), Advocate.

For the 9th Respondent: Mr. A.B. Ojha, Sr. Advocate.
Mr. Bharat Lal, Advocate
Mr. Bharat Bhushan, Advocate

For the State : Mr. Kinkar Kumar, SC-27

CORAM: HONOURABLE THE CHIEF JUSTICE**and****HONOURABLE MR. JUSTICE VIKASH JAIN****ORAL JUDGMENT****(Per: HONOURABLE THE CHIEF JUSTICE)****Date: 18-03-2015**

This Letters Patent Appeal is preferred against the order dated 07.05.2014 in C.W.J.C. No. 796 of 2014 to which the Learned Single Judge declined to vacate the order dated 21.01.2014. Briefly stated the facts are:-

The Appellants were appointed as Panchayat Teachers for School in Gram Panchayat, Halsi of Lakhisarai District on 15.08.2010. After they joined the service and started functioning a new Mukhiya i.e. the 9th Respondent herein was



elected. Initially, he filed C.W.J.C. No. 3570 of 2013 before this Court challenging the appointment of the Appellants as Teachers. The ground pleaded by him was that the Panchayat Secretary issued order of appointment to the Appellants after he was transferred. When this Court pointed out that the appointment of Teachers have to be first challenged before the Appellate Authority, the 9th Respondent withdrew the petition and filed an appeal before the Tribunal, Lakhisarai. The Appeal was dismissed on 22.08.2013. Challenging the same the 9th Respondent filed C.W.J.C. No. 796 of 2014. He made interim prayer for suspension of operation of order of appointment of the Appellants. On 21.01.2014 the Learned Single Judge passed an interim order directing that the salary of the Appellants shall not be paid till further orders. Thereafter, the Appellants filed an application with a prayer to vacate the same and it was rejected on 07.05.2014. Hence this appeal.

Heard Sri Rajendra Prasad Singh, Senior counsel for the Appellants, Sri A.B. Ojha, Senior counsel for the 9th Respondent and Sri Kinkar Kumar, learned Standing Counsel for the State.

Basically, a serious doubt exists as to whether the 9th Respondent has the *locus standi* to challenge the appointment of the Appellants. Reliance is placed on an order passed by the Division Bench of this Court passed in LPA No. 477 of 2011. However, this is not the stage to deal with the said aspect, in detail.

The 9th Respondent did make an effort to challenge the appointment of the Appellants herein before the Tribunal, but was unsuccessful therein. He cannot be on a better footing after dismissal of the appeal. When the Appellate Authority itself could not have stopped the payment of salary to the Appellants, herein during the pendency of proceedings before, things do not improve in favour of the 9th Respondent, after dismissal of his appeal. Added to that the denial of salary to a Teacher, even after he works may lead to serious hardships to the incumbent.

We, therefore, allow this Appeal and set aside the order dated 07.05.2014 and direct that the Appellants shall get salary for the period during which they have worked.

We request the Learned Single Judge with whom the writ petition is pending to dispose of the matter.

(L. Narasimha Reddy,CJ)

Chandran/Md. Ibrarul

(Vikash Jain, J)

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