

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1327 of 2012

IN

Civil Writ Jurisdiction Case No. 1668 of 2012

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1. Arvind Paswan, S/o Sri Dudhi Paswan, R/O Village- Bhathahi, Post Office- Akauna, P.S.- Goh, District- Aurangabad, Bihar, presently posted as Panchayat Teacher, Government Primary School, Nirpura.
 2. Sanju Kumari, W/o Sri Anuj Singh R/O Village- Medhpur, P.O.- Khudwa, P.S.- Khudwa, District- Aurangabad, Bihar, presently posted as panchayat Teacher, Government Primary School, Dumarthu.
 3. Aftab Alam Khan, S/o Md. Basiruddin Khan, R/O Village- Bihta, P.O.- Pogar, P.S.- Rafiganj, District- Aurangabad, Bihar, presently posted as Panchayat Teacher, Government Urdu Primary School, Dandwa. Appellants.

Versus

1. The State of Bihar through Commission-Cum-Secretary Human Resources Department, Govt. of Bihar, Patna.
 2. The District Magistrate, Aurangabad .
 3. The District Education Officer, Aurangabad, Bihar.
 4. The Block Development Officer, Goh Block, Aurangabad.
 5. The Block Education Extension Officer, Goh Block, Aurangabad .
 6. Mirpur Panchayat Through Panchayat Secretary at Village- Mirpur, Goh, Aurangabad.
 7. Lalti Kumari, W/o Sri Nand Kishore Singh, R/O Village- Kaithi Beni, P.O.- Singari, P.S.- Goh, District- Aurangabad. Respondents.
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Appearance :

For the Appellants : Mr. Rajendra Prasad Singh, Sr. Adv.
Mr. Mukesh Kumar Singh, Adv.
For the State : Mr. Kumar Alok, SC-8.
Dr. Raj Kumar Singh, AC to SC-8.
For the Respondent No.6: Mr. Anil Kumar Singh No.6., Adv.
For the Respondent No.7: Mr. Raj Ballabh Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 25-03-2015

Heard Mr. Rajendra Prasad Singh, learned senior counsel appearing on behalf of the appellants, learned counsel for the State and learned counsel for the respondent no.6. Having perused the order of the learned Single Judge and seen the facts, we are not

inclined to interfere in the matter.

From the pleadings, it appears that the Panchayat Samiti had taken a plea that as six posts of Panchayat Teachers were to be filled up 61 people had to be called for counseling according to their merit list. Notices were sent to 61 candidates under UPC (Under Postal Certificate) and not under registered post. Only about 18 to 19 candidates turned up. We must deprecate this practice wherever notices are to be sent and that too for such an important event notices must be sent by registered post. The reason is certificate of posting can easily be obtained and it does not inspire any confidence rather whenever there is a plea of certificate of posting it raises doubts about bona fides and genuineness.

We, therefore, have no hesitation in holding that the order of the Tribunal or the learned Single Judge requires no interference.

Mr. Singh, learned senior counsel further urges that the member of the Tribunal was to retire on 30.11.2012 and he had not actually passed order on that day. The appellants, who were writ petitioners, were told that the date was fixed on 1st of December, 2012. When on 1st of December, 2012 they went, they were asked to come on 10th of December. Thereafter on 15th of December, 2012 they came to know that an antedated order had been passed showing the order

being dated 30.11.2012.

We cannot rely on these pleadings or statements at all because there are no records in support thereof. It is well settled that in pleadings, especially in writ petitions, wherever there are certain statements of facts, which are required to be supported by documents, the documents had to be annexed on affidavit and in absence thereof, the pleadings cannot be looked into as held by the Apex Court in the case of **Bharat Singh & Ors. Vs. State of Haryana & Ors.** since reported in **AIR 1988 Supreme Court 2181** and, in particular, paragraph-13 thereof, which is quoted hereunder:-

“When a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the court will not entertain the point. There is a distinction between a pleading under the Civil P.C. and a writ petition of a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the

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facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it.”

In view of the aforesaid, we are not inclined to interfere with the order of the learned Single Judge which in turn had not interfered with the order of the Tribunal dated 30.11.2012.

Accordingly, this appeal is dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

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