

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1446 of 2014

In

Civil Writ Jurisdiction Case No. 16373 of 2013

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1. Sanjay Kumar Sinha S/o- Shri Rameshwar Prasad Shrivastava, resident of village + P.O.- Areraj, P.S.- Govindganj, District- East Champaran

.... Appellant/s

Versus

1. The State of Bihar
2. The District Teachers Appellate Authority, East Champaran, Motihari
3. The Selection Committee of Panchayat Teacher, null Panchayat Raj- Mathlohiyar, Block- Harsidhi, District- East Champaran, represented through its Panchayat Secretary, Panchayat Raj- Mathlohiyar, Block- Harsidhi, District- East Champaran
4. The Mukhiya, Panchayat Raj- Mathlohiyar, Block- Harsidhi, District- East Champaran
5. The Civil Surgeon-cum-Chief Medical Officer, East Champaran, Motihari
6. Mukesh Kumar Mahto S/o- Shri Achhe Lal Mahto, resident of village- Kolasi, P.O.- Ahirauliya, P.S.- Chiraiya, District- East Champaran

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shri Prakash Srivastava
For the Respondent/s : Ms. Sushant Praveen, AC to SC-27
For Respondent No.6 : Mr. Sanjay Kumar Singh

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH)**

7 20-08-2015

This *intra* Court appeal, under Clause 10 of the Letters

Patent of this High Court has been preferred against an order, passed by the learned single Judge, dated 23.08.2013, passed in CWJC No. 16373 of 2013, whereby the writ application preferred by the appellant under Article 226 of the Constitution of India has



been dismissed. The said writ application was filed, seeking quashing of an order, dated 23.08.2013, passed by the District Teachers Appointment Appellate Authority, East Champaran, Motihari, whereby the Tribunal held that the appellant's appointment as Panchayat Teacher against the post reserved for disabled candidate for the Gram Panchayat Raj Mathiohiyar, for employment year 2008, was illegal and directed appointment of Respondent no.6 herein against the said post. This was based on the reasoning that the appellant's disability certificate showing 45% of disability was fraudulently obtained.

2. From the order under appeal, it appears that the appellant/writ petitioner had claimed his appointment as Panchayat Teacher on the ground of his physical disability. It appears from the order under appeal, which is not in dispute, that there were two certificates issued in his favour; one showing his disability to the extent of 20%, whereas, the other showing his disability to be 45%. On the basis of 20% of disability, he could not have claimed his appointment against post reserved for physically disabled person. The subsequent disability certificate showing 45% of disability was found, not to have been issued in accordance with the Government Policy issued in the month of January, 2007.



3. Learned counsel appearing on behalf of the appellant has failed to convince us that the appellant had not suppressed the earlier certificate of 20% of disability issued in his favour by the competent authority and that subsequent certificate showing his disability to be 45% was issued by the competent authority in accordance with the State Government decision, in order to claim his appointment against the post of Panchayat Teacher, reserved for physically disabled candidates.

4. We do not find any reason to interfere with the order of learned Single Judge as it does not suffer from any infirmity.

5. Mr. Sri Prakash Srivastava, learned counsel appearing on behalf of the appellant has vehemently argued that the direction of the Tribunal to appoint respondent No. 6 against the post reserved for physically disabled candidate could not have been sustained by learned Single Judge as he had in fact not participated in the counselling held by the Selection Committee for such appointment. This aspect has been disputed by the learned counsel appearing on behalf of Respondent No.6 and has submitted that the respondent No.6 had participated in the counselling.

6. In our considered view, once it is held that the appellant could not have been considered for appointment to the

post of Panchayat Teacher, reserved for disable candidate, he cannot question appointment of another person on the said post, having the requisite percentage of disability, for appointment against such post. In our view, in the admitted facts and circumstances of the case, the appellant is precluded from challenging the validity of appointment of respondent No.6.

7. We do not find any merit in this appeal. This appeal is, accordingly, dismissed.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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