

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.807 of 2010

IN

Civil Writ Jurisdiction Case No. 15825 of 2009

Santosh Kumar Singh, S/O Suresh Prasad Singh, R/O Village- Ashurar, P.O.-
Haripur, P.S.- Alauli, District- Khagaria. Appellant.

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna.
3. The District Teachers Appointment Appellate Authority, Khagaria.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The District Superintendent of Education, Khagaria.
6. The Block Development Officer, Alauli, Khagaria.
7. The Panchayat Secretary, Gram Panchayat Raj, Simraha, Alauli, Khagaria.
8. Ashok Kumar Singh, S/O Deo Nandan Prasad Singh, R/O Mazauna, P.O
Haripur, P.S- Alauli, District-Khagaria, the then Mukhiya of Panchayat Raj
Simraha, Alauli, Khagaria.
9. Jay Shankar Prasad, S/o Late Bindeshwari Yadav, R/O Village- Bari Simraha,
Presently Posted as Panchayat Teacher, Government Middle School , Simraha,
Alauli, District-Khagaria. Respondents.

Appearance :

For the Appellant : M/s Rajendra Prasad Singh, Sr. Adv., Mukesh Kumar
Singh and Navjot Yashu, Advocates.

For Respondent No.9 : Mr. Suresh Gandhi, Adv.

For the State : Mr. Pravin Kumar Verma, AC to SC-26.

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 31-07-2015

Heard learned counsels for the appellant, respondent
no.9 and the State.

This is an Intra-Court appeal against the judgment
and order dated 08.03.2010 passed by the learned Single Judge,
whereby the writ petition filed by the petitioner/appellant was
dismissed. The writ petitioner/appellant had challenged the order

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of the District Teachers Employment Appellate Tribunal, Khagaria dated 08.10.2009, whereby it had refused to reinstate the writ petitioner/appellant and refused to take action against respondent no.9.

Having gone through the records and the order of the learned Single Judge, we are not inclined to interfere in the matter. Apart from the reasons given by the learned Single Judge, there are other reasons as well. The writ petitioner/appellant was recruited as a Shiksha Mitra. This was a contractual appointment of fixed tenure on a fixed remuneration. Upon expiry of the contractual period his contract was not renewed. That was in the year 2004. This was because of serious complaints made by the guardians complaining about his behaviour with the children and his frequent absence from the school. Subsequently, respondent no.9 was appointed as Shiksha Mitra in the year 2006. The Bihar Panchayat Primary Teacher (Employment and Service Condition) Rules, 2006 was enacted. It, inter alia, provided that all Shiksha Mitras working as such on the day of coming into force the rules would be absorbed as Panchayat Teacher, which was now a cadre permanent post. Obviously, the writ petitioner/appellant not being there could not become a Panchayat Teacher. Consequent upon this rule, the post of Shiksha Mitra itself stood abolished. That being so, the writ

petitioner/appellant cannot now be reinstated on a non-existing post. Further the appointment of writ petitioner/appellant itself being a fixed tenure contractual appointment, he has no right much less right to continue beyond this time.

In that view of the matter, while agreeing with the order of the learned Single and for the reasons aforesaid, we are not inclined to interfere in the matter. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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