

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14017 of 2015

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Chandeshwar Prasad, son of Sri Jhauri Sah, resident of village Itahari, P.O. Belhi, P.S. Marauna, District Supaul

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Director, Primary Education, Education Department, Government of Bihar, Patna
4. The District Magistrate, Supaul
5. The District Education Officer, Supaul
6. The District Programme Officer, Establishment, Supaul
7. The Block Development Officer, Marauna, District Supaul
8. The Block Education Officer, Marauna, District Supaul
9. The Headmaster, Primary School, Sakhua, Block Marauna, District Supaul
10. The Panchayat Secretary-cum-Member Secretary, Panchayat Teacher Appointment Unit, Lalmaniya, Block Marauna, District Supaul

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 04-09-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the office order dated 30.7.2015 passed by the Panchayat Secretary-cum-Member Secretary, Panchayat Teacher Appointment Unit, Lalmaniya, Block Marauna, District Supaul by which the appointment of the petitioner as Panchayat Teacher has been cancelled.

The ground taken for cancellation in the impugned order dated 30.7.2015 is that for such appointment Up-shastri is not an acceptable qualification, whereas the petitioner's qualification is Up-shastri.



From a perusal of Rule 5 (ii) (Cha) of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2012 it is evident that Up-shastri, as has been specifically stated in the said Rules, is not sufficient qualification for appointment of a regular Panchayat Teacher. Thus, the appointment of the petitioner merely on the basis of qualification of Up-shastri cannot be held to be legal and valid in the face of the statutory Rules.

Learned counsel for the petitioner submits that before cancellation of the appointment no show cause notice was issued to the petitioner and thus there is violation of principles of natural justice.

The principles of natural justice cannot be invoked as a mere formula unless the petitioner is able to show before this Court something which he could have shown to the authorities which can affect the decision taken by them. Learned counsel has failed to point out as to how the appointment of the petitioner on the post of Panchayat Teacher was legal and valid when the statutory Rules prohibit the appointment of a person whose qualification is Up-shastri on the post of Panchayat Teacher.

In the aforesaid view of the matter, the office order dated 30.7.2015 cancelling the appointment of the petitioner on the post

of Panchayat Teacher cannot be held to be illegal. The writ application is, accordingly, dismissed.

It is pointed out by learned counsel for the petitioner that the petitioner has worked for more than a year but no amount has been paid to him for the said post. Since admittedly the work had been taken from the petitioner then he would be entitled to be compensated for the same during the period which he had worked. Let the payment be made for the period he had worked within a period of two months from the date of receipt/production of a copy of this order.

(Ramesh Kumar Datta, J)

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