

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.109 of 2015

IN

Civil Writ Jurisdiction Case No. 15183 of 2014

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1. Javed Akhtar Ansari S/o Rahmat Ali Ansari Village Dhanarhi, P.O. Samardiha,
P.O. Sasaram Muffasil, District Rohtas (Sasaram).

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The District Magistrate, Rohtas (Sasaram).
5. The District Education Officer, Rohtas (Sasaram).
6. The District Programme Officer (Establishment), Rohtas, Sasaram.
7. The Block Education Officer, Sasaram, District Rohtas (Sasaram).
8. The Panchyat Secretary, Gram Panchyat Raj, Samardiha Block Sasaram, Rohtas.
9. The Mukhiya Gram Panchyat Raj Samardiha, Block Sasaram, Rohtas.

.... Respondent/s

with

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Letters Patent Appeal No. 79 of 2015

IN

Civil Writ Jurisdiction Case No. 15183 of 2014

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1. Javed Akhtar Ansari S/o Rahmat Ali Ansari Village - Dhanarhi, P.O. -
Samardiha, P.O. - Sasaram Muffasil, Dist. - Rohtas (Sasaram)

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education, Department, Govt. of Bihar, Patna
3. The Director Primary Education, Govt. of Bihar, Patna
4. The District Magistrate, Rohtas (Sasaram)
5. The District Education Officer Rohtas (Sasaram)
6. The District Programme Officer (Establishment), Rohtas, Sasaram
7. The Block Education Officer, Sasaram, District - Rohtas (Sasaram)
8. The Panchayat Secretary, Gram Panchayat Raj, Samardiha, Block, Sasaram,
Rohtas
9. The Mukhiya Gram Panchayat Raj Samardiha Block Sasaram, Rohtas

.... Respondent/s

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Appearance :

(In LPA No. 109 of 2015)

For the Appellant/s : M/S Rajendra Pd. Singh, Sr. Adv & Ramakant Singh

For the Respondent/s : Mr. Dhurjati Pd. Singh

(In LPA No. 79 of 2015)

For the Appellant/s : Mr. Rama Kant Singh
For the Respondent/s : Mr. GP7- D.K. PRASAD

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 07-07-2015

These two appeals arise out of C.W.J.C. No. 15183 of 2014.

2.The appellant was selected and appointed as a Panchayat teacher in Urdu on 8-12-2006 in a school at Samardiha Gram Panchayat. Complaining that he was not being paid salary from March 2012 onwards, the appellant filed C.W.J.C. No. 15183 of 2014. The plea of the respondents was that the certificate on the basis of which the appellant secured appointment, is not recognized by the State of Bihar.

3. During the pendency of the writ petition, the service of the appellant was also terminated through the order dated 7-10-2014. The appellant filed I.A.No. 8575 of 2014 in the writ petition with a prayer to permit him to amend the writ petition and to challenge the order of termination. The learned single Judge, through the order dated 25-11-2014, rejected the said Interlocutory application. L.P.A. No. 79 of 2015 is filed against the said order. Shortly thereafter, the learned single Judge dismissed the writ petition on 4-12-2014. The same is challenged in L.P.A.No. 109 of 2015.

4. Heard Mr. Rajendra Prasad Singh, learned senior counsel for the petitioner and Mr. Dhurjati Pd. Singh, learned counsel for the respondents.

5. The writ petition was filed in the limited context of denial of salary to the petitioner. Once the service of the petitioner was

terminated during the pendency of the writ petition, the proceedings became virtually infructuous.

6. Two options were open to the petitioner. The first was to file Interlocutory application in the writ petition with a prayer to permit to amend the writ petition and to bring in its fold, the challenge to the order of termination. The second was to pursue remedy of appeal before the appellate authority. Even if a separate writ petition is filed in this behalf, the Court would direct the writ petitioner to exhaust the remedy of appeal. Therefore, the step taken by the appellant to get the writ petition amended was not advisable.

7. We, therefore, reject the appeals, but leave it open to the appellant to pursue his remedy vis-à-vis the order dated 7-10-2014 before the appellate authority. We make it clear that none of the observations made by the learned single Judge in the orders under appeal shall be treated as final pronouncement or opinion on the validity or otherwise of the order. If the appeal is preferred within 4 weeks from today, it shall be entertained without raising any objection, as to limitation.

(L. Narasimha Reddy,CJ)

BK.Roy/-

(Sudhir Singh, J)

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