

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1602 of 2014
IN
Civil Writ Jurisdiction Case No. 10756 of 2010

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Rakesh Kumar son of Suresh Prasad, at present Panchayat Teacher,
newly created Primary School Barai Tola, Block Barauli, District-
Gopalganj. Appellant

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department,
Govt. of Bihar, Vikash Bhawan, Patna.
3. The Director, Primary Education, Govt. of Bihar, Vikash Bhawan,
Patna.
4. The District Magistrate, Gopalganj.
5. The Sub Divisional Officer, Gopalganj.
6. The District Superintendent of Education, Gopalganj.
7. The Block Development Officer, Barauli, District - Gopalganj.
8. The Block Education Extension Officer, Barauli, District - Gopalganj.
9. The District Teacher Employment Appellate Authority, Gopalganj.
10. The Gram Panchayat Raj Salempur (West), through its Secretary, i.e.
Panchayat Secretary.
11. The Mukhiya, Gram Panchayat Raj Salempur (west), Block Darauli,
Dist. Gopalganj.
12. The Panchayat Secretary, Gram Panchayat Raj Salempur (west),
Block Darauli, District - Gopalganj.
13. Arbind Kumar Pandey, son of Sri Dewendra Pandey, resident of
village – Sarafara, P.O. Batardih, P.S. – Barauli, District – Gopalganj.

.... Respondents

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Appearance :

For the Appellant : Mr. Umesh Kumar Mishra, Advocate
For the Respondents : Mr. Mayank Rukhaiyar, AC to GA - 1

2.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 01-09-2015

Heard learned counsel for the appellant at
length and learned counsel for the State.

Delay in filing this appeal is condoned.

It is not in dispute that the writ petitioner was
the first candidate on the merit list. It is not in dispute that he
was called for counselling for appointment to the post of
Primary Teacher, but he was not appointed instead of
respondent no. 13 to the writ petition, who is the appellant
before us was appointed.

A complaint was made to the Block
Development Officer who was the statutory authority in this
regard. He also reported that respondent no. 13, the appellant
in this appeal, was wrongly appointed. The writ petitioner
moved this Court. This Court directed him to now go before
the Tribunal. The Tribunal dismissed the appeal and hence the
writ petition.

In the writ proceedings, notices were issued to
respondent nos. 11, 12 and 13 who are the Mukhiya,

3.

Panchayat Secretary and the writ petitioner, all appeared.

When the matter was taken up for hearing, the private respondent chose not to be present. The Writ Court allowed the writ petition setting aside the appointment of respondent no. 13, on the ground that though the writ petitioner was undisputedly more meritorious on the plea that he had not given his consent at the time of counselling he was not appointed. Instead the appellant who was respondent no. 13 in the writ proceeding was appointed. The Writ Court found this to be a suspicious plea to wrongly and illegally deprive the writ petitioner of his appointment.

Considering the merit and considering that the writ petitioner was present at the time of counselling, we see no reason to take a different view as taken by learned Single Judge. This appeal is devoid of merit, and is dismissed, accordingly.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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