

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19587 of 2010

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Dilip Paswan S/O Late Deonandan Paswan R/O Vill Kumharbigha,
P.O.Deo, P.S. Deo, Distt-Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Human Resources Development Department Govt. Of Bihar, Patna
2. The District Teachers Employment Appellate Authority Aurangabad Through Its Member
3. The District Magistrate Aurangabad
4. The District Superintendent Of Education Aurangabad
5. The Block Development Officer Block-Deo, Distt-Aurangabad
6. The Block Development Officer Block Deo, Distt-Aurangabad
7. The Block Education Extension Officer Block-Deo, Distt-Aurangabad
8. Shri Ramesh Kumar Choudhary S/O Late Sri Kunwar Choudhary R/O Vill Belapokhar, P.O.+P.S.Deo, Distt-Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh Sr. Advocate Mr. Rajeev Kumar Singh Mr. Navjot Yesu Miss Aparna Pandey
For the State		Mr. Abhimanyu Vats A.c. to G.A. 9

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

6 23-01-2015 Heard Mr. Rajendra Prasad Singh for the petitioner and A.C. to G.A. 9 for the State. Nobody has appeared on behalf of respondent no.7 inasmuch as no counter affidavit has been filed.

This application assails the order dated 01.10.2010 passed by the District Teachers' Employment Appellate Authority, Aurangabad (for short 'the Authority') passed in Appeal Case No. 89 of 2010 whereby the appeal filed by the respondent no.7 was

allowed and the selection of the petitioner as Panchayat Shiksha Mitra (PSM) in Gram Panchayat Raj Bhawanipur within Deo Block in the district of Aurangabad was cancelled and the applicant (respondent no.7) was directed to be engaged as PSM.

According to the writ petitioner he was an applicant for the post of PSM for which the selection process was undergone by the Selection Committee of the concerned Gram Panchayat in the year 2005. By order dated 28.05.2005 (Annexure-2) altogether 11 PSMs including the petitioner were selected and appointed. Following such appointments, he joined the post on 31.05.2005 vide Annexure-3. By order dated 21.06.2006 (Annexure-4) passed jointly by the Mukhiya as well as the Panchayat Secretary the appointment/engagement of the petitioner besides others was renewed with effect from 14.06.2006 and thereafter he continued as such until the post of PSM was converted/absorbed as Panchayat Teacher(PT) by a fiction of law as contemplated under Clause 3 of Rule 20 of 2006 Rules (for short 'the Rules'). The contention of the petitioner is that once the status of PSM like the petitioner has changed no grievance relating to the selection of PSM either legitimate or otherwise can be entertained by the Authority. From the impugned order passed by the Authority it appears that such grievance of the private

respondent was considered and a direction was issued to appoint/engage the respondent no.7 on the post of PSM. The counsel has relied in this regard on the judgment rendered in the case of **Smt. Renu Kumari Pandey (2011 (4) PLJR 297)** affirmed by the Full Bench in the case of **Kalpana Rani (2014(2) PLJR 665).**

A counter affidavit has been filed on behalf of the State respondent.

The counsel for the State has submitted that private respondent no.7 has passed the post graduate examination whereas the petitioner was only graduate. He however is unable to point out from the relevant Rules and/or Circular then existing that the applicant having postgraduate qualification was required to be granted extra weightage. The educational requirement for the post in question was matriculation which was subsequently enhanced upto the Intermediate. That apart, in view of ratio laid down in the cases on which reliance has been placed by the petitioner it appears that after abolition of the post of PSM and all the circulars/instructions/guidelines governing engagement on the post of PSM having been repealed by virtue of Clause 1 of Rule 20 of the Rules no such grievance can be entertained and the relief be granted to the aggrieved person.

From the statements made in the writ application it appears that on 01.07.2006 when the Rules came into force the petitioner was very much functioning as PSM in the concerned Gram Panchayat. That being the factual position, this Court is unable to uphold the order passed by the Authority as contained in Annexure-1. Accordingly, the order dated 01.10.2010 (Annexure-1) is quashed and set aside.

No order as to costs.

If the petitioner in the meanwhile is out of job, the respondents are directed to reinstate him.

(Kishore Kumar Mandal, J)

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