

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11959 of 2010

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1. Prashant Kumar Rajan S/O Sri Ram Swarup Thakur R/O Vill
Kharagpura, P.O.Kabela, P.S.Parbatta, Distt-Khagaria

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate Khagaria
3. The District Superintendent Of Education Khagaria
4. The Block Development Officer Parbatta Block, Distt-Khagaria
5. The Block Education Extension Officer Parbatta Block, Distt-Khagaria
6. The Mukhiya , Gram Panchayat Raj Kabela, Block-Parbatta, Distt-Khagaria
7. Panchayat Secretary, Gram Panchayat Kabela, Block-Parbatta, Distt-Khagaria
8. The Appellate Authority, District Teachers Appointment Khagaria
Through Its Member
9. The Head Master, Middle School Kabela, Block-Parbatta, Distt-Khagaria
10. Chandan Kumar S/O Late Natthan Pandit R/O Vill & P.O.Balaha,
P.S.Parbatta, Distt-Khagaria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Bhanu Roy & Mr. Anant Kumar
For the Respondent Nos.6 & 7 : Mr. Ranjeet Kumar Singh
For the State : Mr. Nasim Yahya, G.P.13
With Ratnakar Ambastha, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

CAV ORDER

18 23-03-2015

1. The petitioner in the present writ application under Article 226 of the Constitution of India seeks quashing of the order dated 30.4.2010 passed by the District Teachers Appointment Appellate Authority, Khagaria in Appeal Case No. 377-01/09 whereby, the service of the petitioner has been ordered to be terminated as Panchayat Teacher and Respondent no.10 has

been directed to be appointed in his place as Panchayat Teacher for the Gram Panchayat Raj Kabela under the District of Khagaria.

2. From the impugned order it appears that the appellate authority was approached by respondent No.10 Chandra Kumar in 2009 making allegation of irregularities in appointment of Siksha Mitra made in the year 2005. The Tribunal in its impugned order came to a finding that merit points of the petitioner and respondent no.10 were same. The date of birth of respondent no.10, who was appellant before the Tribunal was 15.11.1985 whereas the date of birth of the petitioner was 2.12.1986. Both belonged to backward class category. The Tribunal has recorded that even in the minutes of the proceeding of Selection Committee meeting of the Gram Panchayat, respondent no.10 was shown to have been selected. The Tribunal also came to a finding that respondent no.10 was shown to have been employed as Siksha Mitra in Middle School, Kabela where he worked from 7.5.2005 to 24.5.2005. From the Tribunal order it appears that petitioner was not shown to have been selected. The Tribunal accordingly, came to a finding that petitioner was appointed as Siksha Mitra without recommendation of the Selection Committee and in contravention of the guidelines governing appointment of Siksha mitra. The Tribunal

accordingly, cancelled the appointment of the petitioner, who acquired the status of Panchayat Teacher by operation of Rule 20(iii) of Bihar Panchayat Elementary Teachers (Appointment & Service conditions) Rules, 2006.

3. I have heard learned counsel for the petitioner, learned counsel appearing on behalf of the State Respondents.

4. I do not intend to go much into the facts as I accept the submission made on behalf of the petitioner that in view of Full Bench judgment of this Court in case of Kalpana Rani. Vs. State of Bihar reported in 2014(2) PLJR 665 and Division Bench judgment of this Court in case of Smt. Renu Kumari Pandey Vs. State of Bihar & ors reported in 2011 (4) PLJR 297, the appellate authority did not have the jurisdiction to reopen the validity of appointment made against the post of Siksha Mitra which came to be abolished after coming into force of Bihar Panchayat Elementary Teacher (Appointment & Service Conditions) Rules, 2006.

5. This application is allowed. The impugned order of the Tribunal dated 30.4.2010 (Annexure-10) is set aside.

(Chakradhari Sharan Singh, J)

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