

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1293 of 2010

In

Civil Writ Jurisdiction Case No. 9307 of 2010

Sanjeet Prasad S/O Paremeshwar Prasad Singh resident of Vill.- Bakshama,
P.S. Goraul, Distt.- Vaishali, at present as Siksha Mitra in Hasanpur Gangti
Primary School

.... Appellant/petitioner

Versus

1. The State of Bihar
2. The Secretary, Primary and Adult Education Department, Govt. of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, New Secretariat, Patna
4. The District Magistrate, Vaishali
5. The Secretary, District Teachers Appointment Appellate Authority, Vaishali
6. The District Superintendent of Education, Vaishali
7. The Block Education Extension Officer, Goraul, Distt.- Vaishali
8. The Mukhia, Gram Panchayat Rah Bakshama Goraul, Block Vaishali
9. The Panchayat Secretary, Gram Panchayat Raj Bakshama, Block Goraul, Distt.- Vaishali
10. Rabindra Kumar S/O Hiralal Rai of Vill.- Bakshama Via Mahua, P.S. Goraul, Distt.- Vaishali

.... Respondents

Appearance :

For the Respondent No.10: Mr. Shashi Bhushan Kumar, Advocate
For the State : Mr. Amarendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

23 07-01-2015 Heard learned counsel for the respondent No.10 and
learned counsel for the State.

The appeal has come up for re-hearing pursuant to the
judgment and order dated 3.3.2014 passed by the Supreme Court
in Civil Appeals Nos. 3228-3229 of 2014 by which the appeals



were allowed to the limited extent that this Court was to consider the LPA in the light of the possession of necessary qualifications by the present respondent No.10 (appellant before the Supreme Court) and with the further clarification that there is no case that respondent No.10 Sanjeet Prasad (writ petitioner-appellant herein) will be disturbed inasmuch as he was appointed way back in 2005 and was regularized in May, 2006 when there was a need of a qualified teacher and accordingly the LPA was restored to the file of this Court to hear and decide the same afresh.

Since the matter is to be considered without disturbing the appointment of the writ petitioner-appellant, namely, Sanjeet Prasad, the case of respondent No.10 needs to be considered independently. It is the stand of respondent No.10 that earlier respondent No.10 was appointed as Panchayat Shiksha Mitra in Primary School Hasanpur Gangati, Gram Panchayat Raj Bakshama, Circle Goraul, District Vaishali on 30.5.2003. Thereafter it was renewed for a period of 11 months excluding the summer vacation and he was again reappointed on contract for further similar term on 10.6.2004. Respondent No.10, however, was not given any further reappointment although his services were claimed to be satisfactory and on the post held by him the writ petitioner was appointed. Aggrieved by the same respondent



No.10 approached this Court by filing CWJC No. 2495 of 2007 and by order dated 27.10.2009, observing that in view of the availability of the efficacious alternative forum for consideration of matters relating to employment of Shiksha Mitra/Panchayat Teacher, the writ application was disposed of with a liberty to the petitioner to file an appropriate application before the concerned Appellate Authority, if not already filed, for redressal of his grievance and in case such an application was filed by the petitioner (respondent No.10 herein), the Appellate Authority should consider the same and all documents enclosed including orders of this Court in identical matters, if produced therewith and make all endeavours to dispose of the same on its own merits after hearing the parties concerned by a speaking order preferably within the time prescribed under the Rules for the purpose without going into the question of limitation. The respondent No.10 thereafter approached the District Teachers Appellate Authority which held that as per departmental provisions the appointments of Shiksha Mitras were to be made from a panel of appointment by Sukh Suvidha Samiti and if the works were found to be satisfactory the same was to be renewed till a three year term and until then it was not open to appoint another person on the post of Shiksha Mitra without the approval of the Government but



contrary to the said departmental instructions the Sukh Shuvda Samiti even after finding that the services of respondent No.10 were satisfactory did not grant him reemployment and appointed the writ petitioner-appellant from the new panel without the approval of the Government, which fact is also clear from the letter dated 17.7.2009 of the District Superintendent of Education, Vaishali in which it is stated that respondent No.10 had obtained the qualification equivalent to Intermediate within a period of 33 months of the issuance of the Departmental Resolution in that regard and for which purpose the District Superintendent of Education had by his letter No. 3925 dated 10.9.2008 had directed the Employing Unit to maintain the continuity of the services of respondent No.10, which directions were held by the Appellate Authority to be proper and in accordance with law. The said order dated 30.4.2010 of the District Teachers Appellate Authority was challenged by the writ petitioner-appellant before us. The learned Single Judge dismissed the writ petition after observing that the Appellate Authority had refused relief to both the sides, i.e., the petitioner and respondent No.10, whereas the said observation appears to be contrary to the finding of the District Teachers Appellate Authority in its order dated 30.4.2010. However, in the final order dated 22.6.2011 passed earlier in the present appeal the



matter was decided on another issue that the complaint had to be lodged with the District Teachers Appellate Authority within a period of 30 days of the appointment and the disputed fact remains that the complaint was lodged by respondent No.10 in the year 2010 which is nearly after the period of four years of the appointment of the appellant herein. Unfortunately this Court did not notice the aforesaid fact that respondent No.10 having earlier approached this Court and there being a specific direction of this Court upon respondent No.10 (writ petitioner in the said case) to approach the Appellate Authority by filing an appropriate application which shall be disposed of on its own merits after hearing the parties concerned by a speaking order without going into the question of limitation, which order had acquired finality. Thus in the said facts it cannot be held that the order of the District Teachers Appellate Authority is bad only on the ground that the complaint has been lodged by respondent No.10 in the year 2009. So far as the order of the Appellate Authority on its own merits is concerned, the same has not been interfered with by the learned Single Judge or even by this Court while hearing the appeal earlier.

We are of the view that the said order of the District Teachers Appellate Authority has been passed in accordance with

law and various judgments and orders of this Court have been referred in the said order itself and thus on its merits the said order is not fit to be interfered with.

With the aforesaid observations, the appeal stands disposed of.

(Ramesh Kumar Datta, J)

spal/- **(Vikash Jain, J)**

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