

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2271 of 2013

In

Civil Writ Jurisdiction Case No. 10565 of 2009

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Manjula Devi W/O Sri Manoj Kumar Paswan Resident Of Village-
Majhaul, P.O- Cheriabariarpur, District- Begusarai.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Mr. Manoj Kumar, The Collector- Cum- District- Magistrate, Begusarai
3. Mr. Ashutosh Prasad, The Block Development Officer, Cheria
Bariarpur, Begusarai.
4. Mr. Ayodhya Paswan, The Mukhiya, Gram Panchayat Raj Majhauri- 1,
P.S And Block- Cheriabariarpur, Distt- Begusarai.
5. Mr. Chandra Shekhar Paswan, The Panchayat Secretary Gram
Panchayat Raj Majhauri-1, P.S And Block- Cheriabariarpur, District-
Begusarai.
6. Punam Rashmi, D/o Ganesh Prasad, W/o Sri Sanjay Kumar, Resident of
Village Manjhaul-IV (Baba Tola), Block & P.S. Cheriabariarpur, Dist.
Begusarai, at present posted as Teacher, Primary School, Bichla Tola,
Mushhri, Dist. Begusarai 857127.

.... Opposite Parties/Contemnors

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar Jha, Adv.
Mr. Randhir Kumar No.1

For the O.P. No.6 : Mr. Sidharth Prasad, Adv.

For the State : Mr. J.S. Barnawal, GA-5

For the O.P. : Mr. Jitendra Kumar Roy, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

6 07-01-2015 Heard learned counsel for the parties.

Pursuant to the earlier order of this Court, the District
Magistrate, Begusarai has filed her supplementary show-cause
wherein it has been stated that for the obvious misconduct
committed by the Panchayat Secretary and the Mukhia, actions
have already been taken, inasmuch as, a proposal has been sent to
the State Government for removal of the Mukhia in terms of

Section 18(5) of the Gram Panchayat Act and the departmental proceeding against the Panchayat Sevak has also been initiated after placing him under suspension.

In the considered opinion of this Court, such action has been taken only because of the earlier order passed on 10.12.2014 when it had totally disapproved the report of the District Magistrate, Begusarai. This Court, while upholding the majesty of law, cannot close its eyes in the manner in which the opposite parties have behaved and, to that extent, whether it be the Mukhia or Panchayat Secretary or the members of the Niyojan Samiti, they all are culpably responsible for appointing the opposite party no.6. Let it be noted that this Court in no uncertain terms had made it clear in the operative portion of the judgment and order dated 4.7.2012 in CWJC No. 13565 of 2009 that in the if the appointment of Manjula Devi is not upheld by the Tribunal, the vacancy caused on her removal shall have to be re-advertised for appointment and will not be filled up in any other manner. The Tribunal in fact had also held the appointment of Manjula Devi to be bad and reiterated the direction given by this Court in verbatim.

This Court, therefore, fails to understand as to under what circumstances the advertisement for fresh counseling of only five candidates in respect of fresh advertisement for appointment



had been issued. Let it be noted that the appointment of Manjula Devi was made against a vacancy on which a person had earlier joined and resigned. That vacancy, therefore, was itself sought to be advertised for fresh appointment but somehow Manjula Devi was adjusted against that post from the old panel. That was illegal and eventually was also declared so by the Tribunal. Therefore, the Panchayat Secretary or the Mukhia or the Member of the Niyojan Samiti had no reason to override the specific direction given by this Court in the Tribunal and to that extent, this Court will have no difficulty in holding that the appointment of the opposite party no.6 Punam Rashmi was void ab initio being in violation of the court's order. Reliance in this connection may be made to the judgment of the Apex Court in the case of *Delhi Development Authority Vs. The Skipper Construction Co.(P) Ltd*, reported in *1996 (4) SCC 622*.

Let it be noted that in the year 2012, the rule of appointment on the post of Panchayat Teacher had already undergone change by notification of the Education Department No. 241 dated 3.4.2012 and, therefore, when the direction of this Court had to be complied by way of re-advertisement and appointment of only such eligible persons who had passed the Teachers Eligibility Test.

The opposite parties have now atoned and purged their conduct by removing the opposite party no.6 from the job but that will not be sufficient because a message has to go at the level of Panchayat level that the orders of this Court have to be respected by one and all. In this case, the Panchayat Secretary and the Mukhia prima facie appears to have violated the order and direction of this Court and, therefore, action as proposed to be taken against them as explained in the supplementary counter affidavit filed by the District Magistrate, Begusarai will be completed. This Court also hopes and believes that such actions will be taken to logical conclusion and if necessary, action will also be taken against the other erring members of the Niyojan Samiti who also had failed in discharging their duty in implementing the order of this Court in letter and spirit.

(Mihir Kumar Jha, J)

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