

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19693 of 2010

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Sanjay Kumar Paswan son of Sri Jagdish Paswan resident of village/P.O.
Budhouli P.S. Pakribarama, Nawada

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Nawada
2. Block Development Officer, Warsaliganj Nawada
3. Block Education Officer, Warsaliganj, Nawada
4. District Teachers Employment Appellate Authority, Nawada
5. Sri Jata Shankar Pathak, son of not known, Observer, Teacher at B.K. Sahu High School Warsaliganj, Nawada
6. Sri Saroj Kumar Singh son of not known, the then Panchayat Secretary, Panchayat Shahpur, Block, Warsaliganj, Nawada
7. Sri Kuldeep Das, son of not known, the Panchayat Secretary, Panchayat Shahpur, Block, Warsaliganj, Nawada
8. Sri Arjun Prasad Singh son of not known, Mukhiya Gram Panchayat Shahpur Warsaliganj, Nawada
9. Binod Kumar son of Lalo Das resident Mohalla Jail Road, Nawada, P.O./P.S. Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s Mr. Durgesh Kumar Singh

For respondent no. 9 Mr. Md. Naseem Mukhtar

For the State Mr. Shankar Kumar Choudhary A.C. to AAG 14

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

6 22-01-2015 Heard counsel for the petitioner, the private respondent and the State.

The petitioner was an applicant for the post of Panchayat Teacher (untrained) for which selection process was undergone by the concerned Gram Panchayat. On being non selected he filed an application before the District Teachers' Employment Appellate Authority, Nawada (for short 'the Authority'). The same was considered and rejected vide order

dated 25.09.2010 (Annexure-7) wherein it was noted that respondent no.9 who belonged to the same category to which the petitioner belonged had secured higher marks and was eligible for appointment/engagement.

The contention of the petitioner is that earlier the case of respondent no.9 was not considered by the Selection Committee on the ground that the document furnished by him was not self attested. He was therefore not permitted to participate in the counselling. Aggrieved thereby an appeal was preferred by him wherein after hearing the applicant of the case (respondent no.9) and the Panchayat Secretary the Authority found that he was unjustifiably not permitted to participate in the counselling, although he had the highest marks in the said category inasmuch as his name figured in the merit list (Megha Suchi). Accordingly, a direction was issued to treat the petitioner as present in the selection process all through and permit him to participate in the counselling and thereafter an order in accordance with law be passed. There is no dispute that respondent no.9 has already been appointed on the post in question.

Counsel for the petitioner has challenged the order passed by the Authority (Annexure-6) on the ground that once the respondent failed to furnish self attested copy of the

document(s) the Selection committee was right in not considering his case. He is, however, unable to demonstrate from the relevant rules that there was any such requirement. If the rule does not provide for filing of self attested papers/document the Selection Committee could not have insisted thereon.

In view of the facts noticed above, gross illegality committed with the respondent no.9 has been corrected by the Authority under the impugned order (Annexure-6). In my view, in the facts of the case noted above, the discretionary writ jurisdiction cannot be invoked to set aside an order which in fact has corrected the illegality committed by the respondent in the case of the private respondent no.9.

The writ application lacks merit. It is accordingly dismissed.

(Kishore Kumar Mandal, J)

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