

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13588 of 2012

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Amardeo Yadav S/O Krishna Mohan Yadav Resident Of Village - Parbatta, P.S. -
Kursa Kanta, District - Araria

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department Of Human Resources, Government of Bihar, Patna
3. The Collector, District - Araria
4. The District Education Officer (Establishment), District - Araria
5. The Block Development Officer, Kursa Kanta Block, District - Araria
6. The Block Education Extension Officer, Block - Kursa Kanta, District - Araria
7. The Principal Secretary, Panchayati Raj Department, Government Of Bihar, Patna
8. The District Panchayati Raj Officer, District - Araria
9. The Panchayat Secretary, Rahatmina Gram Panchayat, Block - Kursa Kanta, District - Araria
10. The Mukhiya, Rahatmina Gram Panchayat, Block - Kursa Kanta, District - Araria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. KRISHNA CHANDRA JHA
For the Respondent/s : Mr. MD. N. HODA KHAN SC18

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 01-12-2015

Heard Mr. Jha for the petitioner and the counsel for the State.

Two supplementary affidavits have been filed by the petitioner. The State-respondent has filed a counter affidavit.

The writ application has been filed for a direction upon the respondents to initiate a departmental/criminal proceeding against the entire appointing unit who carried out the appointment on the post of Panchayat Teachers (PTs)

The petitioner was an applicant along with others in the selection process undertaken by the Rahatmina Gram Panchayat within Kursa Kanta Block in the district of Araria for which an advertisement was taken out in the year



2006. The selection made became the subject matter of consideration before the District Teachers' Appointment Appellate Tribunal (for short 'the Tribunal') Araria in Case No. 30 of 2009. By a proceeding dated 08.04.2009/19.05.2009 (Annexure-4 to the 2nd supplementary affidavit) the same was allowed. The Selection Committee was directed to take fresh steps for selection/appointment of PTs. after re-counselling. While discussing the matter the Tribunal, however, also observed that the member(s) constituting the Selection Committee had in the impugned selection process acted in a criminal manner to give undue benefit to the appointees. The said order was challenged by the appointees of the process of selection before this Court. By an order dated 08.09.2011 (Annexure-5), the writ petition was dismissed. Aggrieved thereby, LPA No.1430 of 2011 was filed. The appellate court by an order dated 16.04.2012 (Annexure-6) dismissed the appeal giving some observation in favour of the appointees who were continuing on the post. The said order was unsuccessfully challenged before the Hon'ble Apex Court by the appointees. Indisputably, during the pendency of the litigation before this Court the selection process as per the direction of the Tribunal was undertaken and completed.

Mr. Jha states that having completed the process as directed by the Tribunal the appointment has been made of those who were found entitled to. A grievance has, however, been raised that the Tribunal had also directed for taking departmental as well as judicial proceeding against the erring/errant member(s) of the Selection Committee of the Gram Panchayat. The respondents have not taken any such steps in the light of the order passed by the Tribunal.

In the counter affidavit filed on behalf of the respondents, it has been submitted that the members of the Selection Committee are administratively amenable to the Block Development Officer or the District Panchayati Raj

Officer.

Along with another supplementary affidavit the petitioner has enclosed a copy of the order dated 3rd January, 2009, passed by the District Magistrate, Araria directing the Block Development Officer/District Education Officer/District Superintendent of Education to take needful steps including taking departmental/judicial action against the erring/errant officer(s) or the member(s) constituting the Selection Committee in the light of the order passed by the Tribunal. In substance, the grievance is that the respondents have not till date taken any steps in the light of the order of the Tribunal as also the order dated 3rd January, 2009, passed by the District Magistrate, Araria.

Issue raised herein is the execution of the order of the Tribunal. This Court would be inhibited in taking the role of the executing agency of the order passed by the Tribunal. However, it appears from the materials on record that the matter has been taken up by the District Magistrate and some direction is also issued. In that factual background, this Court would permit the petitioner to approach the respondent-District Magistrate for taking necessary steps towards implementation of the order passed by the Tribunal in its letter and spirit.

The writ petition stands disposed of with the aforesaid observation/liberty.

(Kishore Kumar Mandal, J)

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