

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1367 of 2014

IN

Civil Writ Jurisdiction Case No. 832 of 2012

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1. Deonath Yadav, S/o- Parmeshwar Yadav, R/o village- Daulatpur, P.S. & Distt.- Jamui
 2. Bishnudeo Kumar Yadav, S/o- Jagdish Prasad Yadav, R/o village- Dhapari (Chapra), P.S.- Jhajha, Distt.-Jamui

.... Appellants

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The District Magistrate, Jamui
5. The District Education Officer, Jamui
6. The District Superintendent of Education, Jamui
7. The District Teacher Appointment Authority, Jamui
8. The Block Development Officer, Jhajha, Jamui
9. The Mukhiya, Gram Panchayat Raj, Chhapa, District-Jamui
10. The Panchayat Secretary, Gram Panchayat Raj, Chhapa, District-Jamui
11. Bipin Kumar S/o- Kameshwar Sharma, R/o- Village- Dharmapur, P.S.- Chhanan, Distt.- Lakhisarai

.... Respondents

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Appearance :

For the Appellants : Mr. Rajeev Kumar Singh, Adv.
For the State : Mr. Rajiv Kumar Singh, GP 2
For Respondent Nos. 9 & 10: Mr. Shashi Bhushan Kumar, Adv.
For Respondent No.11: Mr. Manohar Pd. Singh
Mr. Warsing Tanti, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 14-07-2015

Certain posts of Primary teachers fell vacant in the institutions at Chhapa in the district of Jamui. The selection process was initiated in the year 2008. The

appellants, respondent No.11 and certain others submitted applications. The appellants were selected and appointed as teachers.

Complaining that he was not selected, though he possessed the higher merit, the 11th respondent approached the District Teachers Employment Appellate Authority, Jamui. The same was rejected through order dated 30.4.2011. Aggrieved by the same, 11th respondent filed C.W.J.C. No.832 of 2012 before this Court. It was pleaded that he secured 62.77 marks in the qualifying examination whereas the appellants secured 53.5% and 50.9% marks respectively and still they were selected. Learned single Judge took note of that fact and allowed the writ petition. It was observed that in spite of receiving notices in the writ petition, the appellants did not turn up. The appellants filed a review application before the learned single Judge and the same was rejected. L.P.A. No.1367 of 2014 is filed challenging the order in the writ petition. A Letters Patent Appeal with token No.0210108315/2014 dated 4.12.2014 is filed against the order rejecting the review application.

Heard Shri Rajeev Kumar Singh, learned counsel for the appellants and Shri Rajiv Kumar Singh,

Shri Shashi Bhushan Kumar, Shri Manohar Pd. Singh And Shri Warsing Tanti, learned counsel for the respondents.

The basis for selecting the teachers is the general merit list of candidates, prepared by the appointing authority. The name of the 11th respondent occurred at serial No.54 and his marks were shown as 54% i.e. 450 out of 900. Since the appellants secured higher marks, they were shown above the 11th respondent and they were selected. The principal contention urged in the writ petition was that the 11th respondent secured 62.77 marks in the qualifying examination and he was entitled to be awarded 20 marks as weightage for the experience and thereby the aggregate should have been 82.77 marks. However, we find that this point was not specifically raised before the Appellate Authority. Had it been the case at that stage, the 7th respondent would have called for the original record and verified the matter.

The appellants herein filed Xerox copy of the application of the 11th respondent in which the percentage of marks is shown as 50. This, however, is disputed by the 11th respondent. The matters of this nature needs to be verified by the Appellate Authority, duly calling for the

record and giving of opportunity to both the parties.

Hence, Letters Patent Appeal is allowed. The order of the learned single Judge dated 7.5.2014 is set aside. The order passed by the Appellate Authority is also set aside. The matter is remanded to the 7th respondent for fresh consideration and disposal. He should call for the original record from the institution and examine the plea of the 11th respondent as to the percentage of marks obtained by him and the contents of his application.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Anjana Mishra, J)

K.C.jha/-
N.A.F.R.

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