

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.439 of 2014

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1. Chandrama Singh Yadav S/O Jai Ram Yadav R/O Kalyanpur, P.S- Bhore, Distt- Gopalganj.

.... Petitioner/s

Versus

1. The State Of Bihar, Through Principal Secretary, Department Of Education, Govt. Of Bihar At Patna.
2. Principal Secretary, Department Of Education, Govt. Of Bihar, Patna.
3. The Director, Department Of Education, Govt. Of Bihar, Patna.
4. The District Magistrate, Gopalganj.
5. The District Teachers Appellate Tribunal Gopalganj.
6. The Mukhya, Gram Panchayat Raj, Bankatta, Jagirdari.
7. The Secretary, Gram Panchayat Raj, Bankatta, Jagirdari.
8. Sheela Kumari W/O Vidya Sharma R/O Bankatta, Jagirdari, P.S- Bhore, Distt- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AMRESH KUMAR SINHA
Mr. Devanand Tiwari

For the Respondent No. 8 : Mr. Alok Kumar
Mr. Indrajeet Bhushan
Mr. Manish Kumar

For the Respondent No. 7: Mr. Gauri Shankar Thakur

For the Respondent No. 6: Mr. Santosh Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 02-02-2015

02.02.2015

Heard learned counsel for the parties.

The impugned order is Annexure-6 in the present writ application, which is the order, dated 29th of November, 2013, passed by the District Teachers Employment Appellate Tribunal, Gopalganj in Appeal No. 24 of 2013.

Even if the finding of the tribunal is ignored that the petitioner was appointed on a forged kind of

mark-sheet, showing his marks to be 648 by the Panchayat, when the actual mark is 498, the fact that the petitioner was given benefit of weightage of 20 per cent of marks over and above his mark in Intermediate, is itself an illegal and erroneous, because he could never be given 20 per cent weightage over and above his Intermediate marks, but only 20 marks weightage could be given, which works out to about two point odd percent.

Keeping in view the ratio of the decision rendered by the Division Bench in the case of ***Chhotelal Chaudhary Versus State of Bihar, reported in 2014 (3) PLJR 606***, the appointment of the petitioner is erroneous, if not illegal per se.

In view of the same, the net effect is that the petitioner cannot continue on the post of Panchayat Teacher.

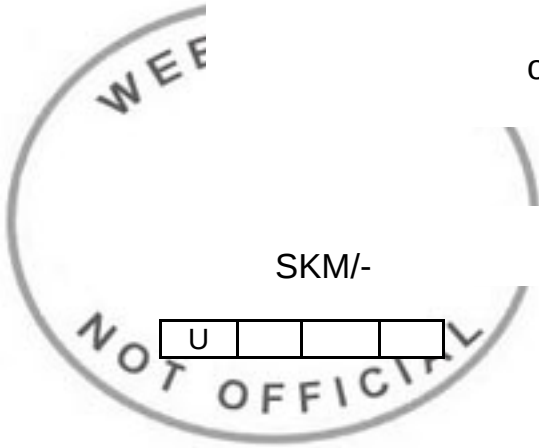
Writ application is dismissed.

Objection of the petitioner that the tribunal has no business to give a direction to appoint Respondent No. 8 will be examined by the authority. The appointment can only take place on the basis of prevalent rule, as it prevails now.

Petitioner will not be paid a single penny after



the order of the tribunal was passed or if he has been allowed to continue, it will be recovered from the pocket of the Mukhiya.



(Ajay Kumar Tripathi, J.)