

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.6236 of 2012

IN

Civil Writ Jurisdiction Case No. 4642 of 2011

- =====
1. Ram Sihasan Singh @ Ram Sighasan Singh, son of Devendra Kumar Singh, resident of village- Raghapur, P.S- Jurawanpur, District- Vaishali.
 2. Shekhar Kumar, son of Sri Dukhan Rajak, resident of village- Paharpur, P.S- Jurawanpur, District- Vaishali.
 3. Juli Sinha, daughter of Sri Mahendra Paswan, resident of village- Baikathpur, P.S- Khusrupur, District- Patna.
 4. Rajesh Kumar, son of Sri Rajendra Das, resident of village- Basudeopur Chandel, P.S- Mahnar, District- Vaishali.
 5. Birendra Kumar Bhakt, son of Kamaldeo Narian Bhakt, resident of village- Paharpur, P.S- Jurawanpur, District- Vaishali.

.... Petitioners.

Versus

1. The State of Bihar through its, Sri Amarjeet Sinha, the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. Sri Ashutosh, the Director, Elementary Education Human Resources Development Department, Government of Bihar, Patna.
3. Sri Jitendra Srivastava, the Collector, Vaishali at Hajipur.
4. Sri Fulendra Singh, the District Teacher Employment Appellate Authority, Vaishali at Hajipur.
5. Smt. Sanghmitra Verma, the District Program Officer, Vaishali at Hajipur.
6. Smt. Munni Devi, the Prakhanda Pramukh, Prakhanda, Raghapur, Vaishali.
7. Sri... the Block Development Officer, Raghapur, Vaishali.
8. Sri Yogendra Prasad Singh, the Block Education Extension Officer, Raghapur, Vaishali.

.... Contemnors/Opposite Parties.
with

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Miscellaneous Jurisdiction Case No. 6657 of 2012

IN

Civil Writ Jurisdiction Case No. 4642 of 2011

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Surendra Rajak, son of Sri Raktu Baitha, resident of Village - Raghapur, P.S. Jurawanpur, District - Vaishali at Hajipur.

.... Petitioner.

Versus

1. The State of Bihar.
2. Mr. Amarjeet Sinha, the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. Mr. Ashutosh, the Director, Primary (Elementary) Education, Human Resources Development Department, Govt. of Bihar.
4. Mr. Jitendra Srivastav, the Collector, Vaishali at Hajipur.
5. Mr. Shashi Bhushan Rai, the District Education Officer, Vaishali at Hajipur.
6. Mr. Yogendra Pd. Singh, the Block Education Officer, Raghapur, Vaishali.

.... Opposite Parties.

with

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Miscellaneous Jurisdiction Case No. 28 of 2013

IN

Civil Writ Jurisdiction Case No. 12052 of 2012

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1. Muni Kumari, wife of Jai Prakash Gupta, resident of village-Nawada Khurda, P.S. Ganga Bridge, District-Vaishali.
2. Dharmendra Kumar, son of Sheojee Thakur, resident of village-Chesti, P.S. Ganga Bridge, District-Vaishali.

.... Petitioners.

Versus

1. The State of Bihar through Sri Amarjeet Sinha, Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna, at present Education Department, Vikash Bhawan, Patna.
2. Sri Asutosh Kumar, the Director, Elementary Education, Department of Education, Human Resources Development Department, Government of Bihar, Patna, at present Education Department, Vikash Bhawan, Patna.
3. Sri Jitendra Prasad Srivastava, the Collector, Vaishali, Hajipur.
4. Sri Shyam Shankar Prasad, Member, District Teacher Employment Appellate Authority, Vaishali at Hajipur.
5. Munni Kumari, Prakhand Pramukh, Raghapur Prakhand, Raghapur, Vaishali.
6. Sri Shashi Bhushan Rai, Block Development Officer, Raghapur, Vaishali at Hajipur.
7. Sri Yogendra Kumar Singh, Block Education Extension Officer, Raghapur, Vaishali.

.... Opposite Parties.

with

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Miscellaneous Jurisdiction Case No. 166 of 2013

IN

Civil Writ Jurisdiction Case No. 4642 of 2011

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1. Suneela Kumari, daughter of Sri Harbansh Singh, resident of Mohalla-East Lohanipur, Railway Hundle Road, P.S. Kadamkuan, District-Patna.
2. Sudhanshu Shekhar Sharma, son of Jadu Sharma, resident of Mohalla-East Lohanipur, Railway under Road, P.S. Kadamkuan, District-Patna.
3. Sangeeta Kumari, daughter of Late Nageshwar Thakur, resident of village-Raghapur, P.S. Jurawanpur, District-Vaishali, Hajipur.
4. Sushila Kumari, wife of Anil Kumar Das, resident of village-Baikathpur, P.S. Khushrupur, District-Patna.
5. Mukesh Kumar, son of Ram Prasad Pandit, resident of village-Chauhatta, P.S. Hajipur, District-Vaishali.
6. Vidyarthi Girish Sharma, son of Jadu Singh, resident of village-Sona, P.S. Naubatpur, District-Patna.

.... Petitioners.

Versus

1. The State of Bihar through Sri Amarjeet Sinha, Principal Secretary, Department

of Human Resources Development, Government of Bihar, Patna, at present Education Department, Vikash Bhawan, Patna.

2. Sri Asutosh Kumar, the Director, Elementary Education, Department of Education, Human Resources Development Department, Government of Bihar, Patna, at present Education Department, Vikash Bhawan, Patna.
3. Sri Jitendra Prasad Srivastava, the Collector, Vaishali, Hajipur.
4. Sri Shyam Shankar Prasad, Member, District Teacher Employment Appellate Authority, Vaishali at Hajipur.
5. Munni Kumari, Prakhanda Pramukh, Raghapur Prakhanda, Raghapur, Vaishali.
6. Sri Shashi Bhushan Rai, Block Development Officer, Raghapur, Vaishali at Hajipur.
7. Sri Yogendra Kumar Singh, Block Education Extension Officer, Raghapur, Vaishali.

.... Opposite Parties.

Appearance :

(In MJC No. 6236 of 2012) :

For the Petitioners :M/s. Bajrangi Lal and Umeshanand Pandit, Advocates

For the State :Mr. Manoj Kumar Yadav, AC to SC-27.

(In MJC No. 6657 of 2012) :

For the Petitioner :Mr. Vasant Vikas, Advocate.

For the State :Mr. Manoj Kumar Yadav, AC to SC-27.

(In MJC No. 28 of 2013) :

For the Petitioners :M/s. Suryakant Mishra & Gajendra Kr. Jha, Advocates.

For the State :Mr. Gautam Bose, AAG-8 & Rohit Mishra, AC to AAG-8

(In MJC No. 166 of 2013) :

For the Petitioners :M/s. G.K. Jha and Suryakant Mishra, Advocates.

For the State :Mr. Manoj Kumar Yadav, AC to SC-27.

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
CAV ORDER

17 07 -05-2015

The M.J.C. Nos.6236 of 2012, 6657 of 2012 and 166 of

2013 have been filed asserting the non compliance of the order dated 07.09.2012 passed in C.W.J.C. No.4642 of 2011, which was disposed of in terms of the order dated 16.07.2012 passed in C.W.J.C. No.12052 of 2012 in respect to which M.J.C. No.28 of 2013 has been filed. As such, all the aforesaid M.J.C. applications have been heard together and are being disposed of by this common order.

2. The background of the present Miscellaneous Jurisdiction Cases is that the petitioners alongwith others submitted application for appointment to the post of Block Teacher of block-Raghopur in the year 2008. On the basis of the applications, the petitioners and others were called for counseling on two phases, first on 24.01.2009 and second on 17.07.2010 and their documents were verified and merit list was finalized and appointment letter was to be issued to them on 12.08.2010 but the same could not be issued. Later on, the Government notified a fresh date for issuance of the appointment letter on 28.12.2010. While the petitioners and others approached the several authorities for issuance of the appointment letter but the same was not issued to them.

Thereafter, the petitioners and some others filed separate applications before the District Teacher Employment Appellate Authority, Vaishali at Hajipur, who after hearing the parties disposed of their applications on 22.06.2011 with finding that due to negligence and lapses on the duty by the Block Teacher, Employment Unit, Raghopur, the employment of second phase teacher has become unsuccessful and the applicants have been deprived for their appointment. In the light of the letter dated 141 dated 04.12.2010 of the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna, the order could not be passed for

appointment of the applicants as a teacher because the panel, as prepared, which was to be approved by the Panchayat Samiti has not been approved. Accordingly, the District Teacher Employment Appellate Authority, Vaishali at Hajipur, ordered the District Education Superintendent, Vaishali, to bring the aforesaid facts into the notice of the Human Resources Development Department to seek instruction to proceed further for employment with further direction to take action against the erring members in the light of the letter no.270 dated 21.02.2011 of the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.

Thereafter, Munni Kumari, who had filed an application before the District Teacher Employment Appellate Authority, Vaishali at Hajipur, filed C.W.J.C. No.12052 of 2012 raising grievance regarding non issuance of the appointment letter for the post of Block Teacher, which was disposed of vide order dated 16.07.2012 with the following observations and directions:

“While there can be no objection to the stand taken on behalf of the respondents, the law equally mandates that if a process of selection has been initiated and concluded with a preparation of merit list, there can be no arbitrary denial of appointment except for valid, cogent and germane reasons vitiating the selection process only and not otherwise.

Let the respondents act in accordance with the directions of

the Tribunal within a maximum period of two months from the date of receipt/production of a copy of this order.”

The 14 applicants, who had filed applications before the District Teacher Employment Appellate Authority, Vaishali at Hajipur, also filed C.W.J.C. No.4642 of 2011, which was disposed of on 07.09.2012 in terms of the order dated 16.07.2012 passed in C.W.J.C. No.12052 of 2012

3. Learned counsel for the petitioners jointly made submission that after disposal of their writ application, the petitioners filed their representations before the opposite parties but they did not pay any heed on their representations and the opposite parties are not willing to redress the grievance of the petitioners to issue appointment letter with an ulterior motive in spite of the directions of this Court in C.W.J.C. No.12052 of 2012 and C.W.J.C. No.4642 of 2011.

4. On the other hand, learned counsel for the State made submission that one of the aspirants, Raj Kumar Singh, who had also approached the District Teacher Employment Appellate Authority, Vaishali at Hajipur, alongwith the petitioners, had filed C.W.J.C. No.3758 of 2012 before this Court which was referred by the Single Bench of this Court to the Division Bench of this Court arriving at the conclusion that the question may affect a large number of cases of all over the State. Hence, it requires an authoritative pronouncement

defining the limits and jurisdiction of the Appellate Authorities constituted under Rule 18 of the 2006 Rules vis-à-vis- the State Government in the matters of appointment and service conditions so far as Panchayat Teachers in the State are concerned. The said writ application alongwith C.W.J.C. Nos.12693 of 2012 and 6350 of 2012 was heard in length and were disposed of as withdrawn with the liberty to approach this Court with appropriate application(s), in future, if so advised, and if the writ petitioners decide to file writ petition(s) afresh, they may be allowed to impugn that part of letter no.207, dated 21.02.2011, issued by the Principal Secretary, Government of Bihar, which has adverse bearing on the rights and interests of the petitioners, which would appear from Annexure-‘D’ to the show cause filed on behalf of the opposite party no.7 on 03.11.2014. As such, the petitioners have liberty to approach this Court in the light of the observations of the Division Bench of this Court in the aforesaid cases. It is also submitted that when the applications were invited for selection to the post of Block Teacher in the year 2008, the qualification was Intermediate for appointment on the said post but due to letter no.141 dated 04.12.2010 of the Principal Secretary, Human Resources Development Department, Government of Bihar, the appointment letter could not be issued to the petitioners and others. The District Teacher Employment Appellate Authority, Vaishali at Hajipur, in its order

dated 22.06.2011 has also given his finding that due to letter no.141 dated 04.12.2010 issued by the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna, order could not be passed to issue appointment letter. It is further submitted that now the eligibility of the Teachers in the Bihar Urban, Primary Teachers (Appointments in Service Conditions) Rules 2007 has been amended vide resolution dated 03.04.2012 in which under Clause-5(II) (Kha), it has been inserted that the candidates should be pass in TET Examination held by either by the Central Government or Bihar State.

5. From perusal of the record, it appears that C.W.J.C. No.3758 of 2012, filed on behalf of Raj Kumar Singh, C.W.J.C. No.12693 of 2012 filed on behalf of Pramod Kumar Singh, and C.W.J.C. No.6350 of 2012 filed on behalf of the Veena Kumari, Kumai Suman and Vimlesh Kumar Mishra, were disposed of as withdrawn by the Division bench of this Court vide order dated 17.07.2014 after hearing the parties at length with the liberty to approach this Court with appropriate application(s), in future, if so advised, and if the writ petitioners decide to file writ petition(s) afresh, they may be allowed to impugn that part of letter no.207, dated 21.02.2011, issued by the Principal Secretary, Government of Bihar, which has adverse bearing on the rights and interests of the petitioners. Raj Kumar Singh, the petitioner of C.W.J.C. No.3758 of 2012 and the petitioners, Veena

Kumari, Kumari Suman and Vimlesh Kumar Mishra of C.W.J.C. No.6350 of 2012, had also filed the applications before the District Teacher Employment Appellate Authority, Vaishali at Hajipur, which were disposed of on 22.06.2011 alongwith the applications of the present petitioners.

6. Under the aforesaid facts and circumstances of the case and the discussions, made above, there is no willful disobedience of the order of the Writ Court on the part of the concerned opposite party(s) and I find no reason to proceed with these cases further. Accordingly, these applications, are disposed of with liberty to the petitioners to approach this Court, if so advised, to impugn the letter no.207 dated 21.02.2011 issued by the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna, which has adverse effect on the rights and interests of petitioners as observed under order dated 17.07.2014 passed by the Division Bench of this Court in C.W.J.C. No.3758 of 2012 and analogous cases.

(Rajendra Kumar Mishra, J)

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