

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1339 of 2012

IN

Civil Writ Jurisdiction Case No. 8575 of 2012

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Rajendra Paswan, S/o Late Khem Narayan Paswan, R/O Village- Kolhar, P.S.-
Fatwah, District- Patna. Appellant.

Versus

1. The State of Bihar through the Secretary Human Resources Development
Department, Govt. of Bihar, Patna.
 2. Director, Secondary Education, Bihar, Patna.
 3. Regional Deputy Director, Tirhut Division, Muzaffarpur.
 4. District Education Officer, Vaishali At Hajipur.
 5. Subdivisional Education Officer, Vaishali At Hajipur.
 6. Headmaster, Rajkiya High School, Bhagwanpur, Ratti, Vaishali.
- Respondents.
- =====

Appearance :

For the Appellant : M/s Rajendra Prasad, Sr. Adv., Pramod Kumar, Ritesh
Kumar and Binod Kumar Datta, Advocates.
For the Respondents : Mr. Gautam Bose, AAG-8
Mr. Rohit Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-03-2015

The present appeal is preferred against the
judgment and order of the learned Single Judge whereby the
writ petition filed by the sole-appellant was dismissed. The
writ petitioner had challenged the order of the Director,



Secondary Education, Bihar whereby he had considered the case of the writ petitioner. Having found that the writ petitioner, though having worked for a long period, had been illegally appointed and as such he did not interfere with the cancellation of his appointment. Having gone through the facts, we are not impressed with the appeal. The reasons are given hereunder.

The petitioner/appellant was employed as a Peon on a vacancy caused in respect of a sanctioned post by reason of death of the Peon in a high school. Even assuming as correct, what writ petitioner/appellant states that he was registered with the employment exchange, without any advertisement, without calling for names from the employment exchange, the appellant was straight way appointed on that post. He continued and worked for several years. There was an enquiry by the District Education Officer as well who found the appointment to be illegal. Ultimately, it was found that he has been illegally appointed and the same was cancelled. He came to this Court and this Court directed him to make a representation before the authorities. The representation of the appellant along with other persons was disposed of by the impugned

- 3 -

order dated 06.03.2012 passed by the Director, Secondary Education, Bihar, Patna, which is Annexure-13 to the writ petition. The order clearly states that the writ petitioner was appointed without any advertisement or without following any procedure whatsoever his appointment was illegal.

Learned senior counsel tries to urge that it could not be an illegality but an irregularity. We are afraid. We are unable to accept the contention. Where there is no advertisement, no interview, no names being called from employment exchange, then it can only be illegal and not irregular appointment. Merely because the petitioner has a requisite qualification and the post was sanctioned and vacant cannot convert this illegal appointment into irregular appointment.

Thus, we find no merit in this appeal. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

Trivedi/NAFR

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