

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 26 of 2014

IN

Civil Writ Jurisdiction Case No. 2540 of 2010

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Upendra Poddar, Son of Late Yadu Poddar, Resident of At Post-Raun, P.S.-Allauli,
District-Khagaria.

.... Appellant

Versus

1. The State of Bihar.
2. The Member, District Appellate Tribunal for Teacher Appointment Appellate for
Authority, Khagaria.
3. The District Magistrate, Khagaria.
4. The District Superintendent of Education, Khagaria.
5. The Block Education Extention Officer, Allauli, District-Khagaria.
6. The Mukhiya, Sahsi Gram Panchayat, At & Post-Sahsi, P.S.-Alauli, District-
Khagaria.
7. The Panchayat Sachiv, Sahsi Gram Panchayat, at & Post-Sahsi, P.S.-Allauli,
District-Khagaria.

.... Respondents/Respondents

8. Md. Sayeedur Rahman Faridee, Son of Md. Moinuddin, Resident of Vill & P.O.
& P.S.-Allauli, District-Khagaria.

.... Respondent/petitioner

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Appearance :

For the Appellant : Mr. Rajeev Kumar Singh, Advocate
For the Respondent-State : Mr. Amresh, A.C. to S.C.-11
For the Respondent No.8 : Mr. Abdul Mannan Khan, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

Date: 10-08-2015



The order, dated 08/04/2013, passed by the learned Single Judge in C.W.J.C. No. 2540 of 2010, whereby an order of the Member, District Teachers Appointment Appellate Tribunal, Khagaria (*hereinafter referred to as the "Appellate Tribunal"*), in Appeal Case No. 134 of 2009, has been set aside, is under challenge in the present intra Court Appeal under Clause - 10 of Letters Patent of this Court.

2. By the order, dated 20/05/2009, the Appellate Tribunal had allowed the Appeal preferred by the present appellant on the ground that he had a rightful claim to be appointed against unreserved Roster Point No. 423, for the post of Panchayat Teacher in Sahsi Gram Panchayat Raj of Khagaria district, and held that the appointment of respondent No. 8 against the said post was illegal. The Appellate Tribunal, accordingly, set-aside the appointment of respondent No. 8 and directed the Panchayat Secretary, Sahsi Gram Panchayat Rajya, to appoint the appellant against the said Roster Point No. 423.

3. There are certain facts, which are not at all in dispute. The appellant had applied for the post of general teacher in Sahsi Gram Panchayat Rajya, Allauli. There were



altogether 16 posts; out of which, 11 posts were for general teachers and 5 for Urdu teachers. This is not in dispute that respondent No. 8 herein had applied for the post of Urdu teacher, whereas, the appellant had applied against 11 posts meant for general teachers. This is also not in dispute that the posts were to be filled up on the basis of reservation policy applicable for appointment to those posts for which, register points were fixed. The respondent No. 8 was appointed as Urdu teacher against the unreserved Roster Point No. 423. It is the case of the appellant that the said Roster Point No. 423 was fixed for unreserved candidates against which, he ought to have been appointed and respondent No. 8 was wrongly appointed as Urdu teacher, whose name had earlier figured against unreserved Roster Point No. 431 of the wait list. The appellant, with this grievance, had approached the Appellate Authority challenging the appointment of respondent No. 8 by filing an appeal giving rise to Appeal Case No. 134 of 2009. The Appellate Authority held appointment of respondent No. 8, against unreserved Roster Point No. 423, to be illegal and cancelled his appointment. The Appellate Tribunal directed the Panchayat Secretary to appoint the appellant against the said post.

4. The respondent No. 8, thereafter, preferred a writ application, challenging the order, dated 20/05/2009, before this Court, giving rise to C.W.J.C. No. 2540 of 2010, which came to be allowed by the order under Appeal, dated 08/04/2013, passed by the learned Single Judge. Learned Single Judge took into account the admitted fact that out of total 16 posts, sanctioned for primary teachers in Shasi Gram Panchayat, 11 posts were meant for general teachers and 5 for Urdu teachers. Respondent No. 8 had not claimed any reservation, he was appointed against one of the 5 vacancies of Urdu teachers and was accordingly posted in a Maktab.

5. Learned Single Judge found the order of the Appellate Tribunal to be erroneous inasmuch as the Appellate Tribunal had proceeded on a wrong presumption that a Urdu teacher was entitled for reservation and could have a claim for consideration against posts open for general candidates.

6. Learned counsel, appearing on behalf of the appellant, has submitted that the said Roster Point No. 423, being unreserved, the Appellate Tribunal had rightly directed the appellant to be appointed after cancelling the appointment of respondent No. 8, whose case could have been considered against the post reserved for Urdu teachers.

7. Learned counsel for the appellant has not disputed the fact that altogether 5 posts of Panchayat Teachers in the concerned Gram Panchayat were required to be filled up by Urdu teachers. He does not have a case that more than 5 Urdu teachers have been appointed for the concerned Gram Panchayat on the basis of selection process in question.

8. In our opinion, the appellant cannot/could not have any grievance against appointment of respondent No. 8 as an Urdu teacher inasmuch as the appellant was not an applicant for the post of Urdu teacher. It is not his case that any person of his category having lower merit points than him has been appointed, in the concerned Gram Panchayat, as Panchayat teacher on the basis of the processes of selection in question.

9. We do not find any infirmity in the order of learned Single Judge, dated 08/04/2013, passed in C.W.J.C. No. 2540 of 2010.

10. This appeal is, accordingly, dismissed.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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