

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23382 of 2013

=====

Vijay Kumar Prasad S/O Sri Khaderan Ram, Resident of Village- Parmanpur,
Police Station - Dawath, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Human Resources, New Secretariat, Patna
3. The Member, District Teacher Employment Appellate Authority Tribunal, Rohtas (Sasaram)
4. The District Magistrate, Rohtas (Sasaram)
5. The Block Development Officer, Dawath, P.S. - Dawath, District - Rohtas (Sasaram)
6. The District Education Officer, Rohtas, District Rohtas (Sasaram)
7. The District Superintendent of Education, Rohtas (Sasaram)
8. The Block Education Officer, Dawath, P.S. - Dawath, District - Rohtas
9. The Block Education Extension Officer, Dawath, P.S. - Dawath, District - Rohtas (Sasaram)
10. The Panchayat Secretary (Panchayat Sachiv), Gram Panchayat Gidha, Block - Dawath, P.S. - Dawath, District - Rohtas (Sasaram)
11. The Mukhiya, Gram Panchayat Gidha, Block - Dawath, P.S. - Dawath, District - Rohtas (Sasaram)
12. The Headmaster Primary School Gidha, Block - Dawath, P.S. - Dawath, District - Rohtas (Sasaram)
13. Vijay Kumar Ram S/O Mishri Ram R/O Village - Bahuara, Police Station - Dawath, District - Rohtas (Sasaram)

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. SHEO NARAYAN SINGH Mr. AKSHAY AMRITANSHU
For the Respondent State:		Mr. DHURJATI KR PRASAD, GP 7 Mr. RAM SHANKAR PRASAD, AC to GP 7
For the Respondent No.13:		Mr. H P SINGH, SENIOR ADVOCATE Mr. S K RANJAN

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 28-08-2015

The order dated 29.10.2013 passed in Appeal Case No. 7 of
2013 by the Member, District Teachers Employment Appellate
Authority, Rohtas at Sasaram, is under challenge by the petitioner

because he stands terminated from the post of a Panchayat Teacher. The order also gives a direction upon the Gram Panchayat to appoint the private respondent No.13 on the post of a Panchayat Teacher on trained category.

2. Much has been argued and many exchanges of affidavits have taken place. However, the crux of the issue is whether private respondent No.13 acquires eligibility to be appointed as Panchayat Teacher under trained category in the very first place.

3. Stand of the counsel for the petitioner is a categorical 'no'. According to him, the petitioner has brought unimpeachable evidence after obtaining information under Right to Information Act from Bihar School Examination Board, which indicates that the petitioner had not passed his B. Ed. examination on 4.2.2008, the date printed on the marks-sheet supplied to the petitioner. Anneuxre-32 dated 13.2.2015 indicates that the date printed on the marks-sheet is a misnomer because a sample marks-sheet which was given to print with that date came to be reflected in the marks-sheet, issued to the private respondent and he is trying to encash upon the same. The actual date of publication of the result of the respondent No.13, with regard to the institution in question, is 30th December, 2008.

4. There is a brief background why the date 30th December, 2008 is indicated as the date of publication of the result by the

Examination Board. The institution in question from where the private respondent is supposed to have pursued his study was under scrutiny whether it had due recognition by the State of Bihar or any authority to impart education and grant certificates to the candidates who had pursued studies of B.Ed. from the institution.

5. Earlier when the High Court was approached, an interim kind of order was passed allowing candidates to sit for the examination. Matter travelled to the Division Bench and finally before the Apex Court. The Apex Court gave a direction for publication of the results and therefore, the result was published only after the orders were passed by the Apex Court. The results were declared on 30.12.2008.

6. There is no dispute that the last date for applying and consideration for appointment on the post of Panchayat Teacher was fixed as 17.11.2008. Shorn of all other details, the core issue which is required to be considered is that if the private respondent was declared as a successful candidate on 30th December, 2008 whether he was eligible at all to be appointed as a Panchayat Teacher, on trained category, on 17.11.2008. The answer seems to be a no.

7. Learned senior counsel representing private respondent No.13 submits that for all practical purposes, the result in question was prepared and even declared with regard to other institutions on

4.2.2008. Only the formality of official declaration remained due to pendency of the litigation, which travelled right up till the Apex Court. Therefore, in the interest of the private respondent's right and equity, his result should be treated to have been declared on 4.2.2008.

8. There could have been an occasion to consider such a submission on behalf of the private respondent provided two facts which are not in dispute were not standing in his way – one that the Hon`ble Apex Court gave a direction only towards the end of the year for publication of the result and that is why the results were published of the private respondent officially by the Bihar School Examination Board on 30th December, 2008. Secondly, that the date printed on the marks-sheet is a misnomer because no result can be treated to relate back to the date prior to official publication of result which is said to be 30th December, 2008.

9. It is well settled law that a person has to be eligible on the last cut off date fixed by an organization or employer in all respect. Acquiring eligibility during the process of selection cannot be of any avail. If such a leeway is given it may violate the principles of Articles 14 and 16 of the Constitution of India. Many a candidates may not apply knowing fully well that their eligibility had accrued after the cut off date and not prior to that.

10. If this is the position in law as well as the fact which

emerges, then direction of the tribunal to appoint the said private respondent as a Panchayat Teacher, that too, as a trained teacher on the basis of the result published by Bihar School Examination Board on 30th December, 2008, is required to be interfered with.

11. Writ application is allowed. The impugned order contained in Annexure-19, dated 29.10.2013 stands quashed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

U			
---	--	--	--