

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.269 of 2014

IN

LPA 774 of 2012

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1. Kumari Mona Singh D/o- Shri Kanhaiya Singh Resident of Village + P.O. -
Domaigarh, P.S. - Manjhi, District - Saran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Primary, Secondary-cum-Adult Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Director, Sarv Sikscha Abhiyan, Govt. of Bihar, Patna-cum-The State
Project Director Bihar Education Project Council, Patna.
5. The District Magistrate-cum-Chairman, Sarv Siksha Abhiyan, Saran at Chapra.
6. The District Superintendent of Education / District Programme Officer-cum-
District Programme Co-ordinator, Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Tiwary, Adv.

For the 4th Respondent/s : Mr. Girijesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

and

HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE I. A. ANSARI)

Date: 23-09-2015

Heard Mr. Shashi Shekhar Tiwary, learned Counsel,
appearing on behalf of the petitioner, and Mr. Girijesh Kumar,
learned Counsel, appearing on behalf of respondent No.4.

Having carefully perused the order, dated 18.10.2011,
passed in C.W.J.C. No.2671 of 2009, in the light of the submissions,
which have been made on behalf of the review petitioner, we find
that the Court had allowed the appeal by setting aside the judgment
and order impugned therein by assigning cogent reasons as follows:



*“However, on the merits also we are of the opinion that the learned single Judge has erred in issuing mandamus to issue appointment letters in favour of the petitioners and to allow them to join the service. Once it was brought on the record that for the reasons recorded the selection process was cancelled; a fresh selection process had already been commenced, in absence of mala fide alleged or established against the respondents the learned single Judge ought not to have issued mandamus. Moreso, when the writ petitioners were not at the top of the merit list. It is well settled that mere selection does not confer an indefeasible right to appointment. In support of this proposition, learned Principal Additional Advocate General appearing for the appellant has relied upon the judgment of the Supreme Court in the matter of **Shankarsan Dash Vs. Union of India** [(1991) 3 Supreme Court Cases 47].*

On perusal of the public notice issued on 12th May 2007 and the one issued on 9th November 2007, it is apparent that the public notice dated 12th May 2007 was issued without notifying the terms and conditions of appointment or the number of vacancies available. Ex facie the public notice dated 12th May 2007 was not sustainable. Besides, the public notice dated 9th November 2007 has also taken note of the earlier advertisement.

In above view of the matter, it is not possible to uphold the public notice dated 12th May 2007 and the selections made pursuant to that advertisement. In any view of the matter, no appointment can now be made in 2014 pursuant to a selection process commenced in 2007. The appellants or the concerned authority shall now have to initiate the recruitment process afresh in accordance with law.

For the aforesaid reasons, these Appeals are allowed. The impugned common judgment dated 18th October 2011 passed in CWJC Nos. 2671 of 2009 and 7748 of 2009 and the order dated 10th January 2012 made in CWJC No. 393 of 2012 are set aside. CWJC Nos. 2671 of 2009, 7748 of 2009 and 393 of 2012 are dismissed.

Interlocutory applications stand disposed of.”

In the order aforementioned, we do not find any such error, which can be described as an error warranting review of the

order.

In view of the above and in the interest of justice,
review petition stands dismissed.

I.A. No.7946 of 2014 also stands disposed
accordingly.

There shall be no order as to costs.

(I. A. Ansari, ACJ)

(Ashwani Kumar Singh, J)

K.C.jha/-

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