

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19006 of 2010

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1. Vinod Kumar Gupta S/O Sri Prahalad Prasad R/O Vill. + P.O. Tetariya,
P.S. Rajepur, Distt.-East Champaran At Motihari.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Human Resources Development Department, Govt.Of Bihar, Patna.
2. The District Teachers Appointment Appellate Authority, East Champaran At Motihari Through Its Member.
3. The Block Development Officer, Tetaria, P.S. Rajepur, Distt.-East Champaran At Motihari.
4. The Mukhiya Of Gram Panchayat Raj, Tetariya, P.S.Rajepur, Distt.-East Champaran At Motihari.
5. The Panchayat Secretary Of Gram Panchayat Raj, Tetariya, P.S.Rajepur, Distt.-East Champaran At Motihari.
6. Mr. Manoj Kumar S/O Sri Rajeshwar Prasad R/O Vill.-Tetariya, P.S.Rajepur, Distt.-East Champaran At Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Rajeev Kumar Singh
For the Respondent/s : Mr. Shashi Bhushan Pandey
Mr. R.M. Pathak, A.C. to S.C. 29.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 09-01-2015 Heard the parties.

The petitioner herein is aggrieved by the order passed by the District Teacher Appointment Appellate Authority, East Champaran, Motihari (for short 'the Authority') in Appeal Case No. 555 of 2009. The respondent no. 6 approached the Authority raising a grievance that the petitioner was illegally retained as Panchayat Shiksha Mitra (for short 'the PSM') by the Selection Committee of the Panchayat on 10.06.2005 (Annexure-4) which was subsequently renewed for another term of 11 months vide



order dated 05.06.2006. From perusal of the order passed by the Authority, it appears the justification of engagement/retention of the petitioner as the PSM was investigated/examined and it was found that the claim of the applicant before the Authority was ignored in retaining the petitioner as the PSM. Accordingly, the Authority passed the impugned order (Annexure-1) cancelling the engagement of the petitioner as the Panchayat Teacher.

Mr. Singh has submitted that in view of the Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules 2006 (for short 'the Rules') having been enforced w.e.f. 01.07.2006, all PSMs who were engaged and functioning as such, on 01.07.2006 became the Panchayat Teacher by fiction of law created under Clause (III) of Rule 20. Rule 21 thereof clearly states that all circulars/guidelines/instructions issued earlier in the matter of engagement of the PSM stand repealed. The aforesaid aspect of the matter was considered by a Division Bench of this Court in *Smt. Renu Kumari Pandey vs. the State of Bihar and Ors* [2011 (4) PLJR 297] wherein this Court, noticing the relevant facts and the rule/provision(s) held that the Appellate Authority had no jurisdiction to entertain, hear and decide the dispute relating to employment of the PSM under the then prevalent resolution/circular/instruction. Any legitimate claim

for such engagement cannot be raised and entertained after the change of legal status of PSMs. It has thus been submitted that the order passed by the Authority is wholly without jurisdiction. The said judgment fell for consideration before the Full Bench of this Court in ***Kalpana Rani versus State of Bihar [2014 (2) PLJR 665*** wherein the Court noted with approval the ratio laid down in ***Smt. Renu Kumari Pandey (supra)***.

In that view of the matter, this Court has no hesitation in holding that the Authority committed a serious error in entertaining the application filed by the respondent no. 6 and directing for disengagement of the petitioner from the post of Panchayat Teacher. Consequently, the application is allowed. The order dated 30.09.2010 passed by the Authority in Appeal Case No. 555 of 2009 is quashed and set aside.

(Kishore Kumar Mandal, J)

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