

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4488 of 2014

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1. Purushottam Kumar Pandey son of Bhagwan Pandey, resident of Chainnal Tola,
Police Station- Mokama, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Member, District Teacher Appointment Appellate Authority, Jamui
3. The Director, Secondary Education, Human Resources Development
Department, Govt. Of Bihar, Patna
4. The Deputy Development Commissioner, Jamui
5. The District Magistrate, Jamui
6. The District Education Officer, Jamui
7. The District Program Officer, Jamui
8. The Sub-Divisional Education Officer, Jamui
9. The Executive Officer, Nagar Panchayat, Jamui
10. The Block Development Officer, Jamui
11. Gopal Kumar Thakur son of Madhu Sudan Thakur, resident of Village-
Dukhnadih, P.O.- Garsanda, Police Station And District- Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh
Mr. Satya Prakash
For the Respondent State : Mr. GP-30 RAJU GIRI
For the private respondent: Mr. Mukesh Kumar Singh
Mr. Navjot Yeshu

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 09-10-2015

The whole issue revolves around the fact whether the private respondent, who belongs to EBC category, could be appointed as a Nagar Panchayat Teacher against roster reserved for general category candidate.

While attacking the impugned order of the DDC, Jamui, dated 21.12.2013, contained in Annexure-11, counsel for the

petitioner has brought on record Annexure-12, which is the merit list prepared by the respondent authorities, while making selection of teachers in different diverse subjects.

The finding of the DDC is that since private respondent Gopal Kumar Thakur, an EBC candidate, was appointed against the reserved quota and he has been rendering his services and even drawn salary earlier, therefore, there is no occasion to interfere with his continuance and drawing salary.

If Annexure-12 is examined then it is evident that the private respondent has been appointed against the vacancy caused due to non-joining of one Namita Kumari as a Zoology teacher. Annexure-12 indicates roster point 7 as *Anarakshit* (unreserved). If the appointment against roster point 7 was required to be made on non-joining of Namita Kumari then this vacancy ought to have accrued to a general category as is the contention of the counsel for the petitioner.

As far back as on 22.1.2015 private respondent was given time to verify the authenticity of Annexure-12, which has been wrongly recorded as Annexure-11 in the order dated 22.1.2015. Reference to Annexure-11 will read as Annexure-12 in the said order.

When the matter is taken up today, counsel for the private respondent has no inputs or evidence to disprove the authenticity of

Anneuxre-12.

If this is so, then obviously the decision of the DDC, contained in Annexure-11, suffers from the fact that it is based on a wrong factual premise and, therefore, requires interference.

Surprisingly, even the State has kept mum on the issue whatever be the reason for them to do. They have also not bothered to revert to this Court whether Annexure-12 is not an authentic document and what was the roster position. The Court, therefore, comes to an opinion that the impugned order, contained in Annexure-11, is required to be quashed.

Writ application succeeds. Annexure-11 dated 21.12.2013 is quashed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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