

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14411 of 2015

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Savita Yadav, W/O Ranjeet Kumar, R/O Vill- Garhi Vishanpur, P.S. Lakhisarai, Dist. Lakhisarai

.... Petitioner

Versus

1. The State of Bihar through Secretary, Primary Education Department, Govt. of Bihar, Patna
2. Secretary, Primary Education, Govt. of Bihar, Patna
3. The District Magistrate, Lakhisarai
4. The District Education Officer, Lakhisarai
5. District Programme Officer (Establishment), Department of Education, Lakhisarai
6. Block Education Officer, Ramgarh Chowk, Dist. Lakhisarai
7. Mukhia, Gram Panchayat Raj Tetarhat, P.S. Ramgarh Chowk, Dist. Lakhisarai
8. Panchayat Secretary, Gram Panchayat Raj Tetarhat, P.S. Ramgarh Chowk, Dist. Lakhisarai
9. District Teacher Employment Appellate Tribunal through its Member
10. Subhash Rajak, S/O Sri Sita Ram Rajak, R/O Vill- Nungarh, P.S. Halsi, Dist. Lakhisarai the then Incharge Headmaster, N.S. Primary School Mushari Tetarhat.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. S.D. Jha with Mr.Lalan Kumar, Advocates
For the State : Mr. R.R.K. Pandey, S.C. 29 with Mr. Nagendra Sharan, AC to S.C. 29

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 10-09-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The writ application has been filed for setting aside the order dated 24.1.2014 passed by the District Teacher Employment Appellate Authority, Lakhisarai.

The petitioner along with certain other persons was appointed as Panchayat Teacher in Gram Panchayat Raj Tetarhat by letter dated 14.8.2010 and joined as such on 17.8.2010. That



appointment process itself was challenged by one Manoj Kumar before the District Teacher Employment Appellate Authority alleging large scale irregularity in the appointment process. After examining the matter in detail the Appellate Authority came to the conclusion that the irregularities have been committed in the appointment process of the year 2008 and accordingly directed that the appointment of the concerned teachers including the petitioner be cancelled after issuing notice to them and the appointments be made afresh after following the Rules. Copy of the order was also forwarded to the District Superintendent of Education, Lakhisarai and the Block Education Extension Officer, Ramgarh Chowk with the direction that they will ensure that the employment unit of Panchayat Raj Tetarhat will act in accordance with the order and cancel the appointments made in the year 2008. Against the said order one of the affected teachers, Subhash Rajak, had filed a writ application before this Court being CWJC No. 21023 of 2011 in which this Court by order dated 20.9.2012 has held as follows :-

“The Tribunal called for the original records. It noticed that there were 100 pages in the register. Pages 1 to 50 contained entry of applications received. Pages 51 and 52 were blank. Counseling was mentioned at page 53 to 56. Pages 57 to 100 were again blank. Despite the empty pages available, another register had been opened by the Mukhiya and Panchayat



Secretary. It notices that after counseling despite availability of persons with higher marks those with lower marks had been appointed. The roster has been violated. There was overwriting and cutting in the columns with regard to Sangeeta Rani. The Tribunal in the circumstances arrived at a finding that there were across the board irregularity in the selection and directed the authority to issue notice to those appointed and then proceed in accordance with law.

In judicial review over the order of the Tribunal, the only question for consideration is whether the Tribunal had material before it for coming to the conclusion of across the board irregularity in selection and whether the order finds any consideration and discussion with regard to the nature of the materials. Both the requirements are fulfilled in the present order. Merely because this Court on the plea of natural justice only may have the power to set aside the order it shall not be proper in the facts of the case to order de novo enquiry.

Even while the Court declines interference with the order of the Tribunal, the petitioner shall have the liberty to persuade the authorities for his defence and that the appellant having been appointment elsewhere no lis may survive.

The application is disposed of.”

Another affected appointee, namely, Sangita Rani, had filed another writ application being CWJC No. 21263 of 2011 in which the earlier order of this Court dated 20.9.2012 passed in CWJC No. 21023 of 2011 was not brought to the notice of the Court and by order dated 18.1.2013 this Court remanded the matter to the District Teacher Employment Appellate Authority



for fresh consideration after giving opportunity of hearing to both sides. Thereafter the matter was taken up by the District Teacher Employment Appellate Authority and notices were issued to all the parties including the petitioner and by order dated 24.1.2014 after referring to the order dated 20.9.2012 passed by this Court dismissed the appeal.

It appears that despite two orders against the illegalities and irregularities committed in the appointment process of the year 2008, for reasons best known to them, the respondent authorities have chosen not to act in the matter and have allowed the petitioner and others to illegally continue on their posts as a result of which claims are being made for payment of salary, etc. which is not at all justified in view of the earlier appointment process having been found to be conducted in an illegal manner and the appointments directed to be cancelled, which order was not interfered by this Court by order dated 20.9.2012 passed in CWJC No. 21023 of 2011.

In the aforesaid view of the matter, this Court does not find any reason to pass any order in favour of the petitioner, who is the beneficiary of the illegal appointment process, which was directed to be cancelled way back in the year 2011 itself.

The writ application is, accordingly, disposed of with a

direction to the respondent authorities to act in terms of the two orders passed by the District Teacher Employment Appellate Authority, Lakhisarai.

(Ramesh Kumar Datta, J)

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