

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.796 of 2014

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1. Raghunath Yadav S/O Late Bihari Yadav Resident Of Village Halsi, P.S- Halsi, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State Of Bihar through The Director, Primary Education, Bihar, Patna
2. The District Magistrate, Lakhisarai.
3. The District Education Officer, Lakhisarai.
4. The District Programme Officer, Lakhisarai.
5. The Block Development Officer, Halsi, District- Lakhisarai.
6. The Block Education Officer, Halsi, District- Lakhisarai.
7. Sri Rakesh Kumar S/O Late Chhotelal Ram Resident Of Mohalla- Sadipur Chhoti Durga Asthan, P.S- Kotwali, District- Munger, Ex- Panchayat Sachiv, Gram Panchayat Halsi, P.S- Halsi, District- Lakhisarai., At Present Panchayat Sachiv Suryagarha, P.S- Surgagarya, District- Lakhisarai.
8. Sri Rahul Sharma S/O Pramod Sharma Resident Of Village Halsi, P.S- Halsi, District- Lakhisarai, Ex- Mukhia Gram Panchayat Halsi, P.S- Halsi, District- Lakhisarai.
9. Pampam Kumari D/O Mahesh Prasad Singh Resident Of Village Baha Chowki, P.S- Dharhara, District- Munger, At Present Panchayat Teacher Newly Established Primary School Block Campus Mushahari Tola, Halsi, P.S- Halsi, District- Lakhisarai.
10. Kanchan Kumari D/O Krishna Murari Singh Resident Of Village Halsi, P.S- Halsi, District- Lakhisarai., At Present Panchayat Teacher Newly Established Primary School Block Mushahari Tola, Halsi, P.S- Halsi, District- Lakhisarai.
11. Nitu Kumari D/O Bhagirath Singh And W/O Raushan Kumar Resident Of Village- Mohanpur, P.S- Ramchandrapur, District- Lakhisarai, At Present Panchayat Teacher Primary School Baghaur, Mushahari, Ps- Halsi, District- Lakhisarai.
12. Shashi Bhushan S/O Harikant Singh Resident Of Village- Dumra Ward No. 2, P.S- Barahia, District- Lakhisarai At Present Panchayat Teacher Newly Established Primary School Tarhari Mor Mushahari Halsi, P.S- Halsi, District- Lakhisarai.
13. Anupama Kumari D/O Sri Ram Singh Resident Of Village- Halsi, P.S- Halsi, District- Lakhisarai, At Present Panchayat Teacher Primary School Baghaur, Mushahari, P.S- Halsi, District- Lakhisarai.
14. Nisha Devi D/O Shyam Sunder Singh Resident Of Village- Halsi, P.S- Halsi, District- Lakhisarai, At Present Panchayat Teacher Newly Established Primary School Tearhari Mor Mushahari, P.S- Halsi, District- Lakhisarai.
15. Upendra Ram S/O Ram Lal Ram Resident Of Village- Halsi, P.S- Halsi, District- Lakhisarai, At Present Panchayat Teacher Primary School Konagdi, Mushahari, P.S- Halsi, District- Lakhisarai.
16. Awadh Kishore S/O Late Bhuttu Mahto Resident Of Village- Karnpura, P.S- Suryagarha, District- Lakhisarai, At Present Panchayat Teacher Primary School Bandol, P.S- Halsi, District- Lakhisarai.
17. Amod Kumar S/O Basuki Singh Resident Of Village- Tilakpur, P.S- Chanan, District- Lakhisarai, At Present Panchayat Teacher Primary School Baghaur, Mushahari P.S- Halsi, District- Lakhisarai.
18. Dinesh Kumar Paswan S/O Guleshwar Paswan Resident Of Village- Kundar,

P.S- Chanan, District- Lakhisarai, At Present Panchayat Teacher Newly Established Primary School Konagdi, Mushahari, P.S- Halsi, District- Lakhisarai.

19. Rubi Kumari D/O Ram Kumar Resident Of Village- Bandol, P.S- Halsi, District- Lakhisarai, At Present Panchayat Teacher Primary School Mahsoni, P.S- Halsi, District- Lakhisarai.

20. Anil Kumar S/O Kapildeo Mahto Resident Of Village Kundi, P.S- Halsi, District- Lakhisarai., At Present Panchayat Teacher School Mahsoni, P.S- Halsi, District- Lakhisarai.

21. Geeta Kumari D/O Ravi Ranjan Sanohi Resident Of Village- Intabandh, P.S- Chandradeep, District- Jamui, At Present Panchayat Teacher Primary School Konagdi, Mushahari, P.S- Halsi, District- Lakhisarai.

22. Nagina Paswan S/O Sewak Paswan Resident Of Village Guaharnagar (Khutkat), P.S- Sikandra, District- Jamui, At Present Panchayat Teacher Primary School Neema, P.S- Halsi, District- Lakhisarai

23. Sonam Kumari D/O Shyam Kumar Chandrawanshi Resident Of Village- Baghaur, P.S- Haldi, District- Lakhisarai, At Present Panchayat Teacher Newly Established Primary School Konagdi Mushahari, P.S- Halsi, District- Lakhisarai

.... Respondent/s

Appearance :

For the Petitioner/s : Mr A.B.Ojha, Sr. Advocate
Mr. Bharat Lal

For the State : Mr. Manoj Kumar Yadav, AC to SC 27

For Pvt. Respondents: Mr Arun Kumar
Mr Ram Vinay Pd. Singh

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 28-09-2015

Petitioner is the Mukhiya of the Gram Panchayat in question, who is assailing the decision of the District Teachers Employment Appellate Authority, Lakhisarai passed in Appeal Case No.5 of 2013-14. The date of the impugned order is 22.8.2013.

Submission of the counsel for the petitioner is that the manner in which the private respondents came to be appointed by a Panchayat Secretary has already been noticed by a previous

Bench while hearing the matter in his order dated 21.1.2014 and 7.5.2014. If that is the fact, respondents 9 to 23 have no locus to continue or hold the office of Panchayat Teachers by any illegal kind of order of appointment passed by the transferred Panchayat Secretary.

The private respondents on the other hand draw attention of this Court to an order passed by this Bench and affirmed by a Division Bench in CWJC No.7354 of 2010, decided on 20.1.2011 and LPA No.477 of 2011, disposed of on 18.3.2011 holding that a Mukhiya has no status to challenge an order of a Tribunal because he cannot be said to be the interested party. If the concerned candidates, who are affected by the selection process and appointment, have not approached the Tribunal or any authority, an imaginary and non-existent cause of action cannot form the basis for a Mukhiya to raise an issue before the High Court by challenging a decision of the Tribunal.

The rational and reasoning available in the two decisions mentioned above do apply to the present case. Dismissal of the writ application, however, may not come in the way of such candidates, who may have been affected by such selection and appointment, if they can at this belated stage.

Writ is dismissed.





Before parting learned senior counsel for the petitioner puts a valiant argument that the writ application can also be treated as a writ of quo warranto directed against the respondents.

How I wish such a submission was entertainable because the writ application has not been filed against the selection and appointment of the private respondents but the challenge is against an order of a Tribunal. However, such a challenge cannot be converted into a writ of quo warranto.

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(Ajay Kumar Tripathi, J)

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