

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4767 of 2014

In

Civil Writ Jurisdiction Case No. 20963 of 2011

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1. Shrawan Kumar Singh, Son of Sri Nankhu Prasad Singh, Resident of village- Bhatora, P.O- Bhatora, P.S- Hathori , District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. R.K.Mahajan Principal Secretary, Human Resources Development Department, Bihar, Patna.
3. R.B. Choudhary The Director, Primary Education, Bihar, Patna
4. Ram Chandra The District Magistrate, Samastipur.
5. Brij Kishore Singh The Block Education Officer, Shivaji Nagar, District- Samastipur
6. Brajesh Kumar Ojha The District Education Officer, Samastipur
7. Gouri Shankar Mandal The Mukhiya, Gram Panchayat, Rahtoli, Samastipur
8. Upendra Yadav The Panchayat Secretary, Gram Panchayat Rahtoli, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Kumar Jain, Adv.
For the Respondent/s : Mr. Kinkar Kumar, SC 27
Mr. Manoj Kumar Yadav, AC to SC 27
Mr. Surendra Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 09-09-2015

Heard counsel for the petitioner and the O.Ps.

In the present case, this Court vide order dated 2.4.2014 passed in CWJC No. 20960 of 2011 has found that the appointment of Rakesh Kumar Singh was not in accordance with law and on that account his appointment was set aside and direction was given to hold a fresh counseling and make appointment in accordance with law.

Counsel for the petitioner submits that in pursuance thereof, fresh counseling was conducted in which petitioner was appointed, vide Annexure-2 and he joined his post.

The District Education Officer has examined the record and found that the counseling was not done in proper manner which fact has been mentioned in his show cause where specifically it has been averred that the Selection Committee did not issue any notice to the prospective candidates and the candidates who participated in the earlier selection process nor notice was published/circulated by the Panchayat Samiti, Mukhiya and the Panchayat Secretary with regard to holding of fresh counseling and petitioner was selected and he was handed over the appointment letter.

The Panchayat Secretary has filed show cause to-day where he has stated that in terms of direction of this Court, selection was made and the petitioner was found to be the best candidate for the post, accordingly, selected.

As it appears the order of this Court was carried out but the question is whether subsequent selection was correct or it suffered from same illegality as found by this Court earlier.

Legality or illegality of appointment cannot be looked in this proceeding and can only be examined by the District

Teachers’ Employment Appellate Authority, Samastipur.

Petitioner, if so advised may file an application before the said forum and the appellate authority will be obliged to decide the issue after giving notice to the parties with regard to the selection aforesaid, preferably within six months from the date of filing of such application.

With this observation, this petition is disposed of.

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(Shivaji Pandey, J)