

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.297 of 2013

1. Rajesh Kumar Roushan Son Of Sri Nageshwar Mahto Resident Of Village-
Mirjapur, Police Station- Rosera, District- Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Member, District Teacher'S Appointment Appellate Authority, Samastipur
3. The District Programme Officer (Establishment), District- Samastipur
4. The Block Development Officer, Rosera, District- Samastipur
5. The Block Education Officer, Rosera, District- Samastipur
6. The Mukhia, Gram Panchayat Raj Rahua, Block- Rosera, District- Samastipur
7. The Panchayat Secretary, Gram Panchayat Raj Rahua, Block- Rosera, District- Samastipur
8. Ajay Kumar Yadav Son Of Late Sukhasan Yadav Resident Of Village-
Tenuamat, Block- Rosera, District- Samastipur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav
For the Respondent/s : Mr. Raju Giri
For the Respondent No. 5: Mr. Avanindra Kumar Jha

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 29-01-2015

29.01.2015

Heard learned counsel for the parties.

The Court is in agreement with the petitioner that the tribunal had no authority to give a direction, dated 16.11.2010, i.e., Annexure-7, to appoint the private-respondent, Ajay Kumar Yadav, as Panchayat Teacher. If nobody had turned up for participation amongst the category of trained candidates and if no merit-list was prepared with regard to untrained candidates, then, obviously, exercise should have been initiated afresh, but only extending benefit to the private-respondent, because he approached the tribunal, would

be in clear breach of Article 14 and 16 of the Constitution of India. He made things worse. Tribunal has no authority to give direction to appoint "A", "B" or "C". At the most, he could have been given a direction for consideration. Even this part of the direction, therefore, is exceeding the jurisdiction of the quasi judicial authority.

From a reading of the order, it also emerges that there are many other candidates, who had higher and better marks than the private-respondent, then it cannot be a case of first come first serve or only serve those, who approached the tribunal.

The impugned order, contained in Annexure-7 and the corresponding order, therefore, passed in Annexure-11, which is letter of appointment of the private-respondent, therefore, is quashed.

Writ application is allowed. If the posts are required to be filled up, they would be filled up in accordance with the existing rule, which is in operation now.

(Ajay Kumar Tripathi, J.)

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