

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1227 of 2013

In

Civil Writ Jurisdiction Case No. 22605 of 2011

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Ruby Kumari, D/o Sri Ram Chandra Singh, Wife of Sri Avalok, Resident of Village- Nardidih, P.O. and P.S.- Nardiganj, District- Nawada, presently posted as Panchayat Teacher in Upgraded Middle School, Dariyapur, P.O. and P.S.- Nardiganj, District- Nawada

.... Appellant.

Versus

1. The State of Bihar, through the Secretary-Cum-Commissioner, Department of Human Resources, Govt. of Bihar, Patna
2. The Director, Department of Human Resources, Govt. of Bihar, Patna
3. The District Magistrate, Nawada
4. The District Superintendent of Education, Nawada
5. The Block Development Officer, Nardiganj in the District of Nawada
6. The Block Education Extension Officer, Nardiganj in the District of Nawada
7. The Gram Panchayat, Nardiganj, through the Panchayat Secretary, Under Nardiganj Block in the District of Nawada
8. The Mukhiya, Nardiganj, Gram Panchayat, Nardiganj, District- Nawada
9. The Member, District Teacher Employment Authority, Nawada
10. Smt. Daizy Kumari Wife of Manoj Kumar, resident of Village- Patoria, P.O.- Adampur, P.S.- Katrisarai, District- Nawada, presently posted as Panchayat Teacher in Primary School, Nardidih, District- Nawada
11. Smt. Usha Sinha, wife of Dinesh Prasad Singh, resident of Village- Waksu, P.S.- Rajgir, District- Nalanda.(Petitioner in the Writ Petition)

.... Respondents

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Appearance :

For the Appellant/s : Mr. Navin Prasad Singh, Advocate
For the Respondent/s : Mr. Vindhyakeshri Kumar, Sr. Advocate
: Mr. Rajesh Ranjan Kumar, Advocate
For respondent No.1 to 9: Mr. Pulkit Sinha, AC to GA-XII

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

AND

HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

CAV ORDER

(Per: **HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH**)

4 07-01-2015

The present appeal is preferred against the order, dated 20.06.2013, passed in C.W.J.C. No. 22605 of 2011, whereby the writ petition, filed by the respondent No. 11 herein, under Article 226 of the Constitution of India, stands allowed and the order, dated 24.02.2011, passed by the District Teacher's Employment Appellate Authority, Nawada (hereinafter referred to as 'the learned Appellate Authority') stands quashed.

2. The writ petitioner (respondent No.11 herein) filed a writ application praying therein to quash the order, dated 24.02.2011, passed by the learned Appellate Authority, Nawada, whereby the learned Appellate Authority had rejected the contention of respondent No. 11 herein that she had been illegally denied appointment to that post of Panchayat Teacher, under Nardiganj Panchayat, on which the appellant herein was illegally appointed.

3. The facts of the case, in brief, are thus:

Both, the appellant and respondent No.11 (who was the writ petitioner), applied for the post of Panchayat Teacher. It is not in dispute that the writ petitioner-respondent No.11 had higher qualifying marks than the appellant. However, the writ petitioner was not appointed

on the ground that she had not appeared before the Employment Unit on the date fixed to submit her consent for such appointment and to receive the appointment letter.

4. The case of the writ petitioner before the learned Appellate Authority as well as the writ Court was that after *counselling*, she, in fact, waited till 6.30 P.M. at Employment Unit, but no appointment letter was handed over to her. Instead, the appellant, who had lesser marks than her, was subsequently given appointment letter and was appointed in her place as Panchayat Teacher.

5. The learned single Judge of this Court, upon perusal of the materials on record and on consideration of the relevant facts, came to a conclusion that the writ petitioner-respondent No.11 was present and, hence, the allegation that she was not present to receive appointment letter is incorrect. The learned Judge has, therefore, quashed the impugned order, dated 24.02.2011, passed by the Appellate Authority, Nawada, and directed appointment of the writ petitioner on the said post of Panchayat Teacher.

6. We do not find any reason to interfere with the findings of the learned single Judge that the writ petitioner-respondent No.11 was present on the date of

counselling. We are also of the view that if a candidate did not come to receive the letter of appointment, the same ought to have had been sent by post and no appointment should have had been made of another candidate, who had lesser marks.

7. We find that the learned Appellate Authority has taken demonstratively different views in similar set of facts. We entirely agree with the conclusion of the learned single Judge that even assuming that the writ petitioner was not present to receive appointment letter, the same should have had been sent by post to her address.

8. This appeal, therefore, stands dismissed.

(Samarendra Pratap Singh, J.)

I. A. Ansari, J. : I agree.

(I.A. Ansari, J.)

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