

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1383 of 2012

IN

Civil Writ Jurisdiction Case No. 9159 of 2009

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1. Prakash Manjhi S/O Saral Manjhi R/O Bhagwanpur Bazar, District- Saran At Chapra
 2. Kumari Pushpa Singh W/O Rajan Kumar Singh R/O Mohalla-Prabhunath Nagar, P.S. Mufassil, District- Saran At Chapra
 3. Nirmala Yadav S/O Gautam Rai R/O Mohalla- Shiv Nagar, P.S.- Bhagwanpur Bazar, District- Saran At Chapra
 4. Manish Kumar S/O Madan Kumar R/O Mohalla- Sandha Khemji Tola, P.S.- Mufassil, District- Saran At Chapra
 5. Sushma Singh D/O Ram Nath Singh R/O Madho Bihari Lane Salempur Chapra, P.S.- Chapra Town, District- Saran At Chapra

... Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary Human Resource Development Department, State Of Bihar, Vikash Bhawan, Patna
3. The District Magistrate, District- Saran At Chapra
4. The District Superintendent Of Education, Saran At Chapra
5. The Block Development Officer, Sadar Chapra, District- Saran At Chapra
6. The Block Education Extension Officer Sadar Chapra, District- Saran At Chapra
7. The Mukhiya, Gram Panchayat Raj- Maura, P.S. Sadar Chapra, District- Saran At Chapra
8. The Panchayat Secretary Gram Panchayat Raj- Maura, P.S.- Sadar Chapra, District- Saran At Chapra
9. Pawan Kumar Singh S/O Sri Akhileshwar Singh R/O Mohalla- Mohan Nagar, Pratap Nagar, P.S. Chapra Town, District- Chapra
10. Krishna Kumari D/O Ket Narayan Singh R/O Mohalla- Gaura, P.S.- Madaura, District- Saran At Chapra
11. Sandip Kumar S/O Sarya Sinha R/O Village- Malnapur, P.S.-Bheldi, District- Saran At Chapra

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Nikhil Kumar Agrawal, Advocate

For the Respondent/s : Mr. Anjani Kumar, Sr. Advocate, AAG-6
Mr. Shailendra Kumar, Advocate
Ms. Neetu Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 03-04-2015

The appellants, who were the writ petitioners, are aggrieved by
the judgment and order, dated 14.2.2012, passed, in C.W.J.C. No. 9159



of 2009, by learned single Judge who has disposed of the writ petition refusing to interfere with the order passed by the District Teachers Appointment Appellate Authority, Chapra (hereinafter referred to as 'the Appellate Authority'). The learned single Judge has noted that what the Appellate Authority was doing was merely affirming an order passed by the Block Development Officer, Sadar Chapra (hereinafter referred to as the 'B.D.O.') which he had passed as an appellate authority when he had the jurisdiction, which jurisdiction was subsequently conferred upon the Appellate Authority, and as such, the learned single Judge has held that the Appellate Authority was not required to hear the writ petitioners.

Having heard Mr. Y. V. Giri, learned Senior Counsel in support of the appeal and learned counsel for the State, at length, we are unable to subscribe to the view of the learned single Judge for a very basic reason. Our attention is drawn to the letter of the B.D.O., dated 5.11.2007, whereby he had sent the entire records of the proceedings of the Gram Panchayat Raj-Maura, in relation to appointment of Panchayat Teachers, to the District Magistrate-cum-Collector, Chapra. The District Magistrate vide his letter, dated 7.12.2007, responded that having gone through the records, it was clear that the B.D.O. had passed order for cancellation of the counseling without even notice to the parties. He was, thus, advised to take action only after hearing the parties. He was accordingly, advised again, vide letter no. 865, dated 14.5.2008, but he did nothing. In the meantime, the jurisdiction that was vested in the B.D.O., in terms of Rule 18 of Bihar Panchayat Teachers Appointment Rules, 2006, was taken away and an Appellate Authority was constituted. Once the Appellate Authority was constituted, one Neha



Kumari filed an appeal before the Appellate Authority being Case No. 22 of 2009 challenging that the counseling was not correctly done and she was kept out from the counseling wrongly. She had accordingly, prayed that the selection and the appointment, as made in the year 2007, be set aside. The Appellate Authority without adding anybody as party respondents, who had been selected, in the appeal or hearing them, noticing that the B.D.O. had himself set aside the selection process and directed cancellation, affirmed the order of the B.D.O. for cancellation of the appointments though in the case of appellant herself, i.e. Neha Kumari, it held her non-selection to be valid. On coming to know all of this, the writ petition was filed.

Learned single Judge without noticing the fact that B.D.O. himself had passed the order without hearing the parties and in spite of orders being passed by the Collector to hear the parties and then passed orders, he had not done so. The orders, thus, was void in itself. Its affirmance by the authority would not be valid. Mr. Giri, accordingly, submits.

Having gone through the records, we are satisfied that there cannot be a dispute that B.D.O. had not heard anyone before he had purported to cancel the selection process. There was only one person who was complaining that was Neha Kumari. She had gone to the Appellate Authority without success and as far as we know she has not challenged the order of the Appellate Authority. Therefore, her challenge merits no consideration. We, thus, come back to the order of the B.D.O. which, clearly, was without notice to the parties. It is an elementary principle of law that no party can be affected adversely, in any manner,

which has civil consequences without being heard. An order passed without hearing is a nullity and is void ab initio. That being so, its affirmance by the Appellate Authority and that too without hearing, would itself a nullity. We are, therefore, unable to accept the view of the learned single Judge, to the contrary, we would thus, allow the appeal, set aside the order of the learned single Judge as well as the order of the Appellate Authority, dated 14.7.2009, passed in Case No. 22 of 2009 by the District Teachers Appointment Appellate Authority, Chapra. We also set aside insofar as it affects the writ petitioners/appellants before us.

This appeal is accordingly, allowed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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