

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1452 of 2012**

**IN**

**Civil Writ Jurisdiction Case No. 9276 of 2010**

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Shila Devi W/O Sri Surendra Singh R/O Village- Karmaini, P.S.- Sanjhouli,  
District- Rohtas At Sasaram

.... .... Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department,  
Government of Bihar, Patna
3. The District Superintendent of Education, District- Rohtas at Sasaram
4. The Block Development Officer, Block- Sanghauli, District- Rohtas at Sasaram
5. That Block Education Extension Officer, Block- Sanjhouli, District- Rohtas at  
Sasaram
6. The Block Education Extension Officer, Block- Bikramganj (South), District-  
Rohtas
7. The Panchayat Secretary, Gram Panchayat Raj- Karmaini, P.S.- Sanjhouli,  
District- Rohtas At Sasaram
8. The Mukhiya, Gram Panchayat Raj- Karmaini, P.S.- Sanjhouli, District- Rohtas  
at Sasaram
9. Pushpa Devi W/O Sri Ganesh Chaudhary R/O Village- Karmaini, P.S.-  
Sanjhouli, District- Rohtas at Sasaram

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Sudama Singh  
Mr. Rajani Kant Singh  
For the State : Mr. Karandeep Kumar, AC to GP 4  
For Respondent No.7: Mr. Alok Kumar

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**and**

**HONOURABLE JUSTICE SMT. ANJANA MISHRA**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

**Date: 16-07-2015**

Appeal is against the order dated 17.07.2012 passed in  
CWJC No. 9276 of 2010. The appellant seeks quashing of the said  
order because the learned single Judge refused to interfere with the

decision of the respondent authorities to remove her from the post of a Panchayat Teacher for the reasons indicated therein.

2. The submission both before the learned single Judge and even before this Bench is that the appellant is innocent. There is no material, evidence or finding that she had played any fraud in manipulation of the marks which she had actually obtained vis-à-vis what was shown by the concerned Panchayat to give her the benefit of engagement as a Panchayat Shiksha Mitra.

3. The appellant was supposed to have obtained 553 marks which adds up to 61.44% whereas in her engagement as a Panchayat Shiksha Mitra the Panchayat showed her marks as 585 which adds up to 68%.

4. The controversy was raised. Matter was examined and this allegation was found to be true.

5. The appellant had approached the High Court earlier in CWJC No. 5069 of 2009 wherein the learned single Judge referred the matter to the Principal Secretary, Department of Education, Government of Bihar, for an enquiry and hearing. The Principal Secretary decided the matter against the appellant vide order dated 22.2.2010.

6. The plea of innocence which was taken and is being taken on behalf of the appellant that she was not a party to any



manipulation and she had tendered her marks to the Panchayat for consideration and selection, cannot be accepted on the face value because if the conduct of the appellant was honest and upright, then she would have pointed out to the Panchayat at the very first place that the merit position, indicated in terms of marks, carries an error apparent. Appellant did not. She kept quiet, derived benefit of such engagement and only when objection and infirmity was pointed out that she is trying to hide behind the plea of innocence as well as lack of evidence of manipulation by her.

7. Principle of law is well settled. She is the direct beneficiary of what ever was done by the Panchayat. She cannot draw advantage both ways. In fact, this is the essence of the adjudication made by the learned single Judge against whose order the present appeal has been preferred. The learned single Judge has rightly considered the two decisions which were pressed into service and rejected because it cannot be the case of the appellant that her initial engagement was not made by fraud and deceit, whoever be responsible for the same. If something originates in the fraud and deceit, the fruits cannot be derived by the person in whose favour such an act was done.

8. This Court, therefore, does not find any infirmity in the rationale and reasoning provided for by the learned single Judge for

refusing to interfere with the decision of the Principal Secretary,  
Department of Education, Government of Bihar, under Article 226 of  
the Constitution of India.

9. With no legal infirmity emerging from the decision of  
the learned single Judge, the appeal is dismissed.

**(Ajay Kumar Tripathi, J)**

**(Anjana Mishra, J)**

R.K.Pathak/-

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