

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.892 of 2014

IN

Civil Writ Jurisdiction Case No. 2209 of 2013

=====

Sangeeta Kumari Yadav D/o Sri Ram Parikshan Yadav R/o at, P.O. & P.S. Kateya,
District-Gopalganj.

.... Appellant/s

Versus

1. The State of Bihar.
2. The District Education Officer, Gopalganj.
3. The District Programme Officer (Establishment), Gopalganj.
4. The Block Education Officer, Kateya, P.O. Mahuawan, P.S. Kateya, District Gopalganj.
5. The Mukhiya, Gram Panchayat Raj, Ameya, P.O. Mahuawan, P.S. Kateya, District Gopalganj.
6. The Secretary, Gram Panchayat Raj, Ameya, P.O. Mahuawan, P.S. Kateya, District Gopalganj.
7. The District Teacher Appointment Employment Appellate Authority, Gopalganj.
8. Husntara W/o Mahfooz Alam R/o Village Pasauni Makhtab, P.O. Bhagipatti, P.S. Kateya, District Gopalganj.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Rajeev Kumar Singh, Adv.
Mr. Manoj Kumar, Adv.
Mr. Priyadarshi Sharan Maitra, Adv.

For the State : Mr. Kundan Bahadur Singh, SC-22

For the Respondents Dr. Mayanand Jha, Adv.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 09-04-2015

For two vacancies of Panchayat Teacher in Ameya Gram Panchayat of Gopalganj, in 2008 an advertisement, as provided in the Rule was issued- one post was reserved for backward category and the other was earmarked for woman. In the counselling that took place some time in the year 2001, Smt.

Archana Kumari, who is not a party here, was selected and appointed as Panchayat Teacher. The appellant herein approached the District Teachers Employment Appellate Authority, Gopalganj, 7th Respondent, challenging the appointment of Archana Kumari. The appeal was allowed on 9.11.2012. Thereafter, in implementation of the order of the Appellate Authority, the Gram Panchayat appointed the appellant herein as Panchayat Teacher.

Husntara, the 8th respondent, Mukhiya of the village filed CWJC No. 2209 of 2013 challenging the order of the Tribunal dated 09.11.2012. She pleaded that the Panchayat Secretary i.e 6th respondent created forged and fabricated document, and that resulted irregularities in appointment. Through order dated 7th April 2014, the learned Single Judge set aside the order of the Tribunal and the matter was remanded for fresh consideration. Hence this appeal.

Heard Sri Rajeev Kumar Singh, learned counsel for the appellant, Sri Kundan Bahadur Singh, learned counsel for the State and Dr. Mayanand Jha, learned counsel for the respondents.

The appellant herein was one of the candidates for the post of Panchayat Teacher, along with Archana Kumari. It is pleaded that though 28th February 2009 was fixed for counseling earlier, nothing took place on that date, and

thereafter, no communication whatsoever was issued to any candidate for counselling. Appellant pleaded that she secured 70.33% marks and ignoring her merit, Archana Kumari who secured 69.6% marks, was selected and appointed. The appellant availed the remedy of appeal before 7th respondent. After issuing notice to the concerned parties, the 7th respondent allowed the appeal.

The only person, who could have felt aggrieved by the order of the 7th respondent, was Archana Kumari. She, however, did not prefer any appeal. It appears that she reconciled to her appointment being set aside and the appellant herein being appointed in her place.

It is the Mukhiya of the village i.e. 8th respondent that has chosen to challenge the order of the 7th respondent. We are of the clear view that the 8th respondent did not have the locus standi to file the writ petition at all. It would have been a different matter, had the 8th respondent i.e Mukhiya supported the case of Archana Kumari, if she preferred an appeal challenging the order of 7th respondent. Another curious aspect is that 8th respondent did not choose to implead the said Archana Kumari. When such is the state of affairs, we find it difficult to sustain the exercise undertaken by the learned Single Judge remanding the matter for fresh consideration.

We therefore, allow the appeal and set aside the

order dated 7th April 2014 passed by the learned Single Judge.
We, however, make it clear that in case Archana Kumari files a writ petition challenging the order of the Tribunal, this order would not come in the way.

Interlocutory applications, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Shivaji Pandey, J)

B.Roy/Mahesh

U			
---	--	--	--