

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1540 of 2012

IN

Civil Writ Jurisdiction Case No. 12274 of 2012

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Chhotan Mistri S/o Tulsi Mistry R/o Village- Daharpur, P.S.- Ghosi, Distt.- Gaya.

.... Appellant/s

Versus

1. The State of Bihar
2. Director, Primary Education, Bihar, Patna
3. Deputy Director of Primary Education, Bihar, Patna
4. District Superintendent of Education, Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arun Kumar Sinha

For the Respondent/s : Mr. Md. N. Hoda Khan, SC18

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 30-07-2015

The appeal of the appellant is required to be dismissed with the cost of Rs. 5000/- payable to the Legal Services Committee, Patna High Court. It is a frivolous kind of appeal filed by the appellant as learned Single Judge after taking note of earlier rejection of prayer in C.W.J.C. No. 6140 of 1991 has refused to pass any order in his favour against the termination order passed way back on 20th September, 1976.

The reason for the petitioner in getting embolden is supposed to be an observation made by a learned Single Judge in

yet another writ application, which is a case of *Birendra Yadav Versus The State of Bihar & Ors.*, reported in 2000 (2) PLJR page 220 the issue was the minimum age for employment.

In the present case, it is the finding of the learned Division Bench at the very threshold in the year 1993 itself that the petitioner was not even a matriculate as well as being under age was ineligible to be appointed as an Assistant Teacher. Obviously, termination of the petitioner was the only option, which could be exercised in such kind of appointment. Since the petitioner did not move the higher forum against the order of Division Bench and moved the High Court again, writ was rightly dismissed by learned Single Judge.

Appeal is dismissed. The cost must be deposited within a period of eight weeks from today.

(Ajay Kumar Tripathi, J.)

(Rajendra Kumar Mishra, J.)

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