

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1355 of 2012

IN

Civil Writ Jurisdiction Case No 13512 of 2009

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Jai Mangal Singh S/O Ram Nandan Singh R/O Mohalla & P.O.- Ramnagara,
Sirauli-Ii, Block- Riga, P.S.- Riga, District- Sitamarhi

.... Appellant/s

Versus

1. The State Of Bihar
2. The District Magistrate, Sitamarhi
3. The District Superintendent of Education, Sitamarhi
4. The Block Development Officer, Riga, Sitamarhi
5. The Member District Teacher Employment Appellate Authority, Sitamarhi
6. Naveen Kumar Singh S/O Late Mithulal Singh R/O Village- Hari Pratappur,
P.O.- Sirauli, District- Sitamarhi
7. The Mukhiya Gram Panchayat Raj- Sirauli Ii, P.S.- Riga, District- Sitamarhi
8. Panchayat Secretary Gram Panchayat Raj- Sirauli Ii, P.S.- Riga, District-
Sitamarhi

.... Respondent/s

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For the Appellant/s : M/s Arun Kumar & Hans Lal Kumar, Advocates

For the S t a t e : Mr Mohan Kumar Singh, AC to SC 5

For Respondent No 6 : M/s Bimal Kumar & Binendra Kumar, Advocates

For Respondents 7&8: Mr Uday Kumar, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 05-08-2015

The appellant was the writ petitioner who had challenged the order of the District Teachers Appointment Appellate Authority, Sitamarhi (for brevity, *the Authority*) challenging the order dated 03.09.2009 passed by the Authority whereby the writ



petitioner/appellant's selection as Shiksha Mitra as made in the year, 2004-2005 has been set aside. There was yet another writ petition filed by one Naveen Kumar Singh being CWJC No 14596 of 2009 challenging the same very order of the Authority whereby, upon Naveen Kumar Singh's application to the Authority, the Authority, while setting aside the selection and appointment of the writ petitioner/appellant, it refused to issue directions for appointment of the said Naveen Kumar Singh. Naveen Kumar Singh has been made respondent No 6 in the present writ proceedings and this appellate proceeding. The learned Single Judge held that as the writ petitioner/appellant was the son of the Mukhiya, the Mukhiya managed to get his appointment done. Mukhiya should not have participated in the process and, thus, the appointment of the writ petitioner/appellant was bad. The Writ Court equally did not interfere in the other writ petition filed by Naveen Kumar Singh and rightly so, in our view, as in 2009, there could be no direction for appointment of any person as a Shiksha Mitra which post itself stood abolished in the year, 2006.

2 We have heard the learned counsel for the writ petitioner/appellant and respondent No 6 Naveen Kumar Singh at length.

3 In our view, this appeal has to be allowed. The first thing

we must notice is as to why and how the Authority entertained the application of respondent No 6 Naveen Kumar Singh in the year 2009 with regard to a recruitment which had been done in the year, 2004-2005. The reason why we are noticing this is that in the year 2004-2005, pursuant to advertisement, Shiksha Mitras were selected and appointed. That was purely contractual fixed remuneration, fixed time period appointments. Respondent No 6 agrees that, on merit whether Post Graduate qualification of the writ petitioner/appellant is taken into account or not, he was inferior and could never have been selected. Therefore, respondent No 6 could not, at any point of time, displace the writ petitioner/appellant. This selection, as noted above, was in the year 2004-2005. These contracts were then renewed. Writ petitioner/appellant was Shiksha Mitra in the year 2006. Here things changed. Pursuant to the Government policy decision, all the Shiksha Mitras, who were working as such in 2006, were absorbed as Block Teacher and/or Panchayat Teacher, as the case may be. Accordingly, writ petitioner/appellant was absorbed as Block Teacher. The post of Shiksha Mitra was abolished. This new appointment as Block Teacher was permanent appointment under the State Government through the Panchayat Samitis. Apparently, it is this heart burning that brought respondent No 6 Naveen Kumar Singh in 2009 before the Authority for the first time challenging what was done in 2004-2005.

4 In our view, the Authority ought not to have entertained this application at all. If that be so then the order passed by the Tribunal on 03.09.2009 cannot be sustained. Consequently, respondent No 6, who was even otherwise not entitled to be appointed, cannot rock the boat at this distant point of time. If the order of the Tribunal goes, the judgment of the learned Single Judge also has to be set aside.

5 We, accordingly, allow this appeal, set aside the order of the Authority and the order of the learned Single Judge. The writ petitioner/appellant Jai Mangal Singh would be forthwith reinstated by the Panchayat Samiti as a Block Teacher where he was working for over five years.

6 However, in the facts and circumstances above, he shall not be entitled to any remuneration for the period he had not worked as a consequence of removal but that period would be counted for the purposes of continuity of service.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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