

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18876 of 2010

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Rana Kumar Jha S/O Sri Kedar Nath Jha R/O Vill.- Goari, P.S.- Bashahi,
Block- Sonbarsa, Distt.- Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary Patna
2. The Principal Secretary Human Resources Development Department,
Government Of Bihar, Patna
3. The Director, Primary Education Government Of Bihar, Patna
4. The District Magistrate, Saharsa
5. The District Teachers Appointment Tribunal Through Its Member,
Saharsa
6. The District Superintendent Of Education, Saharsa
7. The Block Education Extension Officer, Sonbarsa, Distt.- Saharsa
8. The Mukhiya, Gram Panchayat Sarouni-Madhepura P.S.- Bashahi,
Block- Sonbarsa, Distt.- Saharsa
9. The Panchayt Secretary, Gram Panchayat, Sarauni Madhepura Block,
Sonbarsa, P.S.- Bashahi, Distt.- Saharsa
10. The Headmaster, Primary School, Sarouni, P.S.- Basauni Anchal-
Sonbarsa, Distt.- Saharsa
11. The Panchayt Secretary Sarauni Madhepura Gram Panchayat, Block-
Sonbarsa, Distt.- Saharsa
12. Pranav Kumar Pritam S/O Sri Vijay Prasad Patel Vill.- Bajraha, P.O.-
Mahua Bazar, P.S.- Basahi, Distt.- Saharsa
13. Santosh Suman S/O Ramvtar Mandal R/O Vill.- Bajraha, P.O.- Mahua
Bazar, P.S.- Bamahi, Distt.- Saharsa

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Jha
For the Respondent/s : Mr. (SC-3)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 05-01-2015 Heard counsel for the petitioner and the State.

The petitioner has filed the present writ application for
issuance of appropriate writ/direction to set aside the common
order dated 31.08.2010 passed by the District Teachers'
Appointment Appellate Authority, Saharsa (Annexure-3) passed in

Appeal Nos. 03/09, 04/09 and 08/09.

The private respondent nos. 12 and 13 herein had filed appeal before the Authority vide Appeal No.03/09 and 04/09 respectively which were heard along with Appeal No. 08/09 and allowed. On perusal of the said order passed by the Authority it appears that the same is related to the engagement of the applicants on the post of Panchayat Shiksha Mitra in the Gram Panchayat in question.

Learned counsel for the petitioner has submitted that the impugned order passed by the Tribunal/Authority was challenged in CWJC No. 18937 2010 (Sanjay Kumar vs. State of Bihar & Ors.) wherein this Court by an order dated 11.07.2014 quashed the same relying on the judgment in the case of Kalpana Rani Vs. State of Bihar (2014 (2) PLJR 665) wherein the ratio laid down in the case of Renu Kumari Pandey vs. State of Bihar (2011 (4) PLJR 297) was reiterated and affirmed. It is the contention that after coming into force of the Rules and the interpretation thereof made in the case of Renu Kumari Pandey (supra) no such grievance can be raised and entertained by the Authority. A web copy of the said order passed in CWJC No. 18937 of 2010 has been handed in by the counsel for the petitioner which is taken on record and marked 'Y' for identification.

Learned counsel for the State in view of the proposition of law laid down in the aforesaid case has not disputed the aforesaid stand of the petitioner.

In the case of Sanjay Kumar (CWJC No. 18937 of 2010), this Court held as under:-

“Learned counsel appearing on behalf of the petitioner at the outset has drawn my attention to Full Bench judgment of this Court in case of Kalpana Rani Vs. State of Bihar 2014(2) P.L.J.R. 665 as well as Division Bench Judgment in case of Renu Kumari Pandey Vs. State of Bihar reported in 2011(4) P.L.J.R. 297 to contend that after coming into force of the Bihar Panchayat Teachers (Employment and Service Conditions) Rules, 2006, the Tribunal did not have any jurisdiction to examine the correctness or otherwise of appointments made as Shiksha Mitra since all circulars, guidelines and resolutions relating to appointment of Shiksha Mitra stood repealed by 2006 Rule. In view of the said Full Bench judgment as well as Division Bench judgment, I find substance in the submission made on behalf of the petitioner. The impugned order dated 31.08.2010 passed by the District Teachers Appointment Appellate Authority, Saharsa in Appeal Case No. 3/2009, 4/2009 and 8/09 is set aside as beyond jurisdiction. This application is allowed accordingly.”

Regard being had to above, this Court is satisfied that the present application also merits to be allowed. According the writ application is allowed. The order dated 31.08.2010 passed by the Authority (Annexure-3) is quashed and set aside.

No order as to cost(s).

(Kishore Kumar Mandal, J)

HR/-

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