

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14865 of 2011

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1. Md. Arif S/O Late Md. Maniruddih R/O Vill.-Adharpur, Block-Tajpur, P.S., Distt.-Samastipur.
2. Mosarat Praveen D/O Md. Monojir Hussain R/O Vill.-Adharpur, Block-Tajpur, P.S., Distt.-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Deptt., Govt. of Bihar.
2. The Principal Secretary, Human Resources Development Deptt., Govt. of Bihar.
3. The Regional Deputy Director of Education, Darbhanga.
4. The District Magistrate, Samastipur.
5. The District Superintendent of Education, Samastipur.
6. The Block Development Officer, Tajpur, Samastipur.
7. The Block Education Extension Officer, Tajpur, Samastipur.
8. The Headmaster, Primary School, Molnachak, Block-Tajpur, Distt.-Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Thakur, Advocate.
Mr. Harun Quareshi, Advocate.

For the Respondent/s : Mr. Sanjay Pandey, GP 21
Mr. Vivek Anand Amritesh, AC to GP 21

For the Intervener : Mr. Mrityunjay Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 21-08-2015

Heard learned counsel for the parties.

2. Having regard to the nature of relief sought in this writ application, which may be better appreciated by reading of Para 1 of the writ application, relevant portion whereof reads as follows:

"1.(i) A certiorari setting aside office order containing in memo No. 246 dt. 07.03.2011 (Annexure-2) issued from the level of Respondents District Superintendent of Education cum District Programme Co-ordinator whereby and whereunder the respondents concerned has illegally and on frivolous ground cancelled the appointment/Terminated on the post of Panchayat Teacher under the 2006 Teachers

Appointment Rule and ordered to deposit the amount paid to them as remuneration otherwise legal step shall be taken to recover the same.

(ii) A mandamus commanding and directing the respondents concerned to allow the petitioners to join their respective post and their respective school under Tajpur Block Samastipur and pay to the petitioners current as well as the arrears of salary despite having discharging their duties till the termination order dt. 07.03.2011 has not been served upon them",

this Court must hold that the present writ application was wholly misconceived and ill advised right from the inception. The order dated 07.03.2011 has been passed by the District Superintendent of Education, Samastipur informing the Block Education Officer, Tajpur that a number of employees, having not requisite qualification for the post of Panchayat Teacher, would not be entitled for continuation in service and, therefore, a report should be sent and till that day payment should not be made to them.

3. As against the said order, the petitioners or any other Panchayat Teacher had a remedy before the District Teachers Employment Appellate Authority in terms of Rule 18 of the Bihar Panchayat Primary Teachers (Employment & Service Conditions) Rules, 2006 (hereinafter referred to as 'the 2006 Rules').

4. Let it be noted that under Rule 18 of the 2006 Rules, there is a clear provision for redressal of the grievance of the Panchayat Teacher of any matter relating to his service conditions. In that view of the matter, the petitioners' writ application, without moving the Tribunal, which has statutory alternative remedy, was

ill advised and misconceived.

5. That being so, this writ application is held to be not maintainable and is, accordingly, dismissed.

6. The dismissal of this writ application, however, will not come in the way of the petitioner in approaching the Tribunal and if it is done so, the Tribunal shall entertain the application without non-suiting the petitioners on the ground of delay/limitation keeping in view that this writ application has remained pending since 06.09.2011.

7. The interim order, however, passed by this Court on 13.09.2011 shall stand vacated.

8. At this stage, Mr. Mrityunjay Kumar, learned counsel appearing on behalf of Dolli Kumari and Sarita Kumari, having filed an application for intervention on their behalf, submits that they have been appointed in the vacancies that have been created on account of removal of the petitioners and, therefore, if any relief is now sought by the petitioners before the Tribunal, they would be also entitled for being heard by the Tribunal.

9. In view of the fact that the result of the appeal filed by the petitioners before the Tribunal may adversely affect the appointment or continuation of the interveners, this Court would

direct the petitioners to also implead the interveners in the appeal to be filed before the Tribunal.

10. Interlocutory Applications for intervention stand disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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