

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.5872 of 2013

IN

Civil Writ Jurisdiction Case No. 457 of 2012

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Mintu Sinha, Wife of Harendra Kumar, resident of village- Makhdumpur, P.S.-
Moalviganj Pauthoo, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sri Abhijit Sinha, the District Magistrate, Aurangabad.
3. Sri Bipin Bihari Srivastava, Member, District Education Appellate Authority, Aurangabad.
4. Ram Pravesh Singh, District Superintendent of Education, Aurangabad.
5. Mojir Ansari, Block Education Officer, Rafiganj, Aurangabad.
6. Narendra Kumar Singh, Headmaster Primary School Burwa, P.S. Rafiganj, Aurangabad.
7. Madan Mohan Prasad, Panchayat Secretary, Gram Panchayat, Bhetaniya Rafiganj, Aurangabad.
8. Pushpa Kumar Wife of Arbind Kumar, resident of village - Phehra, P.S. Pheshar, District Aurangabad.
9. Sumat Kumar Singh Son of Late Suryadip Singh, Block Teacher Upgraded Middle School, Manjhauli, Block Rafiganj, District- Aurangabad.
10. Sunil Kumar Kashyap, Son of Sri Bibhishan Gahulati, Panchayat Teacher, Prathmik School Agho Block Rafiganj, District- Aurangabad.
11. Santoshi Kumari Wife of Sunil Kumar, Block Teacher Upgraded Middle School, Manjhauli Block Rafiganj, District- Aurangabad.
12. Manju Kumari, Wife of Pramod Mehta, Panchayat Teacher, Prathmik School Biru, Block Rafiganj, District- Aurangabad.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar Pandey, Adv.

For the Respondent/s : Mr. Avnish Nandan Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-09-2015

Heard learned counsel for the petitioner and learned
counsel for the respondents.

In the present case, grievance has been raised by the
petitioner that the opposite parties de hors to the order passed by this

Court in CWJC No. 457 of 2012, conducted the counselling without giving any notice to the petitioner.

The counsel for the petitioner has pointed out the finding recorded by this Court and the direction which are as follows:-

“This Court does not find any error in the said findings of the Appellate Authority. However, this Court finds force in the submission of learned Senior Counsel for the petitioner that since the Appellate Authority had found irregularities in the selection process it should have remitted the matter back to the Employment Committee for taking steps afresh from the stage of preparation and publication of merit list inviting objections from all the candidates and thereafter calling the candidates for counselling and for their appointment in accordance with the Rules.

This writ application is accordingly disposed of with modification in the order of the Appellate Authority to the extent that the Employment Committee is directed to widely publish the merit list inviting objections from all the candidates and thereafter finalized the same inviting all the eligible candidates for counselling and thereafter take steps for fresh appointment on the vacancies which were available at the first stage of the selection process. In this process, the candidates, who were already appointed, shall also be noticed in compliance to the Principles of Natural Justice and shall be allowed to participate on merits. The process must be completed by the Employment

Committee within three months from the date of receipt/production of a copy of this order after completing all formalities.”

He has drawn attention of this Court to the manner the notices were circulated in “Aaj and New Bihar Times” newspapers which are zero circulation in Aurangabad district so it will be treated to have been not valid and proper circular of the notice, so much so, as per the order of this Court, the opposite parties were required to give an individual notice to the persons who were selected earlier, but the opposite parties have also violated the direction of this Court. He has further drawn attention of this Court to the enquiry report of District Programme Officer dated 30th December 2013 recorded a finding that the fresh counselling was not conducted in terms of the direction given by this Court. Further he has submitted that the document has been filed by the opposite parties to demonstrate that the enquiry was done in a perfunctory manner without showing the date of proceeding, so much so to cover up illegality, an FIR has been lodged making allegation, documents have been taken away by thief.

These matters cannot be looked by this Court in this proceeding, but certainly the Appellate Authority while considering the case of the petitioner, will examine the every aspect of the matter including the manner the fresh counselling was conducted in accordance with law and in terms of order passed by this Court,

giving personal notice to them, so much so, would also take into consideration the enquiry report submitted by the District Programme Officer. The Appellate Authority is directed to conclude the entire proceeding within a period of three months from the date of receipt/production of a copy of this order and if it is found that the authority has committed wrong, he will pass order in accordance with law.

Accordingly, this application is disposed of.

(Shivaji Pandey, J)

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