

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1583 of 2012

IN

Civil Writ Jurisdiction Case No. 19606 of 2010

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Surendra Prasad S/O Sri Parmanand Prasad R/O Vill-Ramnagar, P.O.-
Radhaganj, P.S.-Bhore, Distt-Gopalganj

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department Govt. of Bihar, Patna
2. The District Magistrate, Gopalganj
3. The District Education Officer, Gopalganj
4. The District Superintendent of Education-cum-District Programme Coordinator, Gopalganj.
5. The Block Education Officer, Nagar Prakhand, Bhore, Gopalganj.
6. The Mukhiya, Gram Panchayat Hussepur, Bhore Block, Distt-Gopalganj
7. The Panchayat Secretary, Gram Panchayat Hussepur, Bhore Block, Distt-Gopalganj
8. The Headmaster, The Government Middle School, Dugbalia ,Block Bhore, Distt-Gopalganj.
9. The Member, the District Teachers Employment Appellate Authority, Gopalganj.

.... Respondents

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Appearance :

For the Appellant : Mr. Y.V. Giri, Sr. Advocate
Mr. Lokesh Kumar Singh, Advocate
For the Respondents : Mr. prabhat Kumar, Advocate, AC to GA2

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 08-12-2015

The appellant was the writ petitioner. The
appellant was selected and appointed as Siksha Mitra in the
year 2005, while working as such, he was removed by order



of the Mukhiya of the Gram Panchayat, which first he filed an appeal before the Block Development Officer. It may be noted that in the year 2006, the State Government came up with the Bihar Panchayat Teacher (Appointment and Conditions of Service) Rules, 2006. This Rules *inter alia* provided that all Siksha Mitra who were working on the day when the Rules came into force would be automatically absorbed as Panchayat Teachers, rest of the post would be advertised to be filled up in these Rules with regard to the Panchayat Teachers in terms of Rule 18, and appellate forum was created and the appellate authority was the Block Development Officer. Subsequently, in the year 2008, Rule 18 aforesaid was amended and the appellate authority was designated as District Teachers Appellate Tribunal.

The appellant's case is that upon being dismissed unauthorizedly by the Mukhiya of the Gram Panchayat in the year 2005, he filed an appeal before the Block Development Officer who came to be transferred to the Appellate Tribunal. The Appellate Tribunal then decided the matter in the year 2009 by the impugned order, but having allowed the appeal with direction for reinstatement as now Panchayat Teacher, he ordered that the order would

not be given effect to. This part of the order that was challenged in the writ court.

In our view, the writ court rightly refrains from interfering in the matter. Though, on the face of it, the order as passed by the Appellate Tribunal, sustaining its order, was wholly without jurisdiction. They had become *functus officio*, but still this Court rightly refused to interfere in the matter. The reason is that, the post of Siksha Mitra for which the dispute, that stood abolished in the year 2006, it was statutorily provided that all persons who were working as Siksha Mitra on the said date who were absorbed as Panchayat Teachers. Admittedly, the appellant was not working, he had been dismissed. The order of dismissal had not been stayed. Therefore, by operation of law, he could not have been absorbed as Panchayat Teacher in 2009, when his dismissal as Siksha Mitra was set aside. The Maximum that the order could be passed by the Tribunal was his reinstatement as Siksha Mitra, but that was not possible as that post has since been abolished. He could not be ordered to be reinstated as Panchayat Teacher. On the date of conversion, he was not there as Siksha Mitra, and therefore, his right stood extinguished. All other vacancies were then



subsequently by separate procedure filled up. The appellant did not take necessary steps to protect his right pending appeal. Thus, even though, we find that the order of Tribunal was wrong, no relief could be granted to the appellant. The writ petition was rightly dismissed.

This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Anjana Mishra, J.)

Rajeev/N.A.F.R.

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