

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19702 of 2012

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1. Ravindra Kumar Singh Son Of Late Sheetal Prasad Resident Of Village - Shairapur, P.S. - Chandi, District - Nalanda
 2. Daya Shankar Pateshwari Son Of Late Bishundeo Tanti Resident Of Village - Jogia, P.S. - Chandi, District - Nalanda
 3. Surendra Prasad Son of Ram Chandra Prasad Resident of Village - Kurthia, P.S. - Chandi, District - Nalanda
 4. Narendra Kumar Sinha Son of Yogendra Prasad Sinha Resident of Village - Gourhapur, P.S. - Chandi, District - Nalanda
 5. Upendra Kumar Son Of Jaldhar Kewat Resident Of Village - Mal Bigha, P.S. - Chandi, District - Nalanda
 6. Rubi Kumari Daughter of Fakira Chaudhary Resident of Village - Jogia, P.S. - Chandi, District - Nalanda
 7. Sulekha Kumari Daughter Of Ramsharan Prasad Resident Of Village - Pastur Par, P.S. - Chandi, District - Nalanda
 8. Rekha Kumari Daughter of Ram Nandan Prasad Resident of Village - Manara, P.S. Noor Sarai, District - Nalanda
 9. Kundan Kumar Son of Upendra Prasad Resident of Village - Manara, P.S. Noor Sarai, District - Nalanda
 10. Satyendra Kumar Son of Sheetal Prasad Resident of Village - Shair Par, P.S. Chandi, District - Nalanda
 11. Kamlesh Kumar Son of Ram Nandan Prasad Resident of Village - Sunka, P.S. - Tharthari, District - Nalanda
 12. Rinku Kumari Daughter of Yogendra Prasad Yadav Resident Of Village - Mandachh, P.S. Noorsarai, District - Nalanda
 13. Soni Kumari Daughter of Kashi Chaudhary Resident of Village - Kubra, Bigha, P.S. - Noorsarai, District - Nalanda
 14. Onkar Kumar Singh Son Of Late Awadhesh Prasad Resident Of Village - Manra, P.S. Noorsarai, District - Nalanda
 15. Manoj Kumar Son of Ramavtar Singh Resident of Village - Hasani, P.S. - Chandi, District - Nalanda
 16. Dhananjay Kumar Son of Late Dev Kumar Singh Resident of Village - Hasani, P.S. - Chandi, District - Nalanda
 17. Lalesh Kumar Son of Kavindra Prasad Sinha Resident Of Village - Tikai Chak, P.S. Punpun, District - Patna
 18. Sanjeet Kumar Son Of Arjun Prasad Resident Of Village - Chandi, P.S. Chandi, District - Nalanda
 19. Bashisth Muni Deo Son Of Late Ram Sharan Prasad Resident Of Village - Mandachh, P.S. - Noorsarai, District - Nalanda
 20. Sachchidanand Prasad Son Of Shyam Sunder Prasad Resident Of Village - Hasani, P.S. - Chandi, District - Nalanda
 21. Rinku Kumari Daughter Of Birju Sao Resident Of Village - New Nathupur, P.S. - Parosa, District - Nalanda
 22. Ravi Kant Son Of Janak Prasad Singh Resident Of Village - Sirnowan, P.S. - Chandi, District - Nalanda
 23. Dhananjay Bhushan Son Of Siya Sharan Prasad Resident Of Village -

Kewai, P.S. Chandi, District - Nalanda

24. Ashok Paswan Son Of Late Janki Paswan Resident Of Village -
Madhopur Diha, P.S. - Chandi, District - Nalanda

25. Manorama Kumari Daughter Of Deonandan Prasad Resident Of Village
- Dararia Bigha, P.S. Chandi, District - Nalanda

.... Petitioners

Versus

1. The State Of Bihar through the Principal Secretary, Department Of
Education, Govt. Of Bihar, Patna

2. The District Magistrate, Nalanda

3. The District Education Officer, Nalanda

4. The Block Development Officer, Chandi, District - Nalanda

5. The Block Education Extension Officer, Chandi-Cum-Secretary, Block
Employment Committee, Chandi

6. The Niyojan Committee, Chandi, Block Chandi Through The Chairman,
The Niyojan Committee, Chandi Block, District - Nalanda (Biharsharif)

7. The District Teacher Appointment Appellate Authority, Nalanda
(Biharsharif)

8. Vidhyarthi Kumar Son Of Kamal Prasad Resident Of Village -
Mandachhi, P.S Deepnagar, District - Nalanda

9. Ranjeet Kumar Son Of Satyendra Prasad Resident Of Village - Jagatpur,
P.S. - Telmar, District - Nalanda

10. Sunita Sinha Daughter Of Kapildeo Singh Resident Of Village - Bande
P.S. Rajgir, District - Nalanda

11. Geeta Kumari Daughter Of Rajesh Chaudhary Resident Of Village -
New Naland Colony, P.S. Biharsharif, District - Nalanda

12. Dharmendra Kumar Son Of Ram Bhavan Paswan Resident Of Village -
Keru, P.S. - Chandi, District - Nalanda

13. Om Shankar Sinha Son Of Radhey Shyam Prasad Resident Of Village -
Mokimpur, P.S. - Chandi, District - Nalanda

14. Akhilesh Kumar Son Of Basant Mistry Resident Of Village - Ram
Nagar, P.S. - Giriyak, District - Nalanda

15. Rajeev Kumar Son Of Late Ramswarath Singh Resident Of Village -
Matepur, P.S. Chandi, District - Nalanda

16. Sunil Kumar Son Of Raghubir Prasad Resident Of Village - Koiri,
Bigha, P.S. - Giriyak, District - Nalanda

17. Nawlesh Kumar Son Of Binod Singh Resident Of Village - Matepur,
P.S. -Chandi, District - Nalanda

18. Kumar Anil Rai D/O Rajendra Prasad Resident Of Village - Koeri, P.S.
Chandi, District - Nalanda

19. Akhilesh Kumar Son Of Basant Mistry Resident Of Village -
Mandachh, P.S. Deepnagar, District - Nalanda

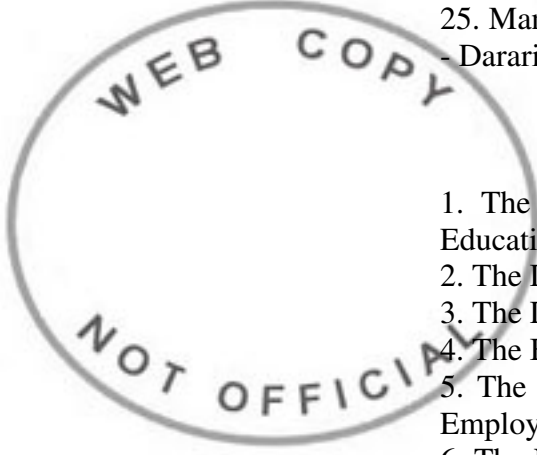
20. Rekha Kumari Daughter Of Dhananjay Kumar Chaudhary Resident Of
Village - Gunjar Chak, P.S. - Chandi, District - Nalanda

21. Dinesh Kumar Son Of Ramashish Gope Resident Of Village -
Mandachh, P.S. Noorsarai, District - Nalanda

22. Nithish Kumar Son Of Ram Swarath Singh Resident Of Village -
Telmari, P.S Telmar, District - Nalanda

23. Munna Kumar Son Of Ram Baran Singh Resident Of Village -
Milkipar, P.S. - Chandi, District - Nalanda

24. Rakesh Kumar, Roushan Son Of Arjun Prasad Singh Resident Of



- Village - Balchand Bigha, P.S. - Ben, District - Nalanda
25. Kiran Kumari Daughter Of Akhilesh Kumar Resident Of Village - Pasaria, Bigha, P.S. - Chandi, District - Nalanda
26. Bandana Pandey Daughter Of Anil Kumar Pandey Resident Of Village - Jogai, P.S. - Ekangersarai, District - Nalanda
27. Sashi Ranjan Kumar Son Of Rajendra Prasad Resident Of Village - Jogai, P.S. - Ekangersarai, District - Nalanda
28. Mani Shankar Prasad Son Of Rajendra Prasad Resident Of Village - Gharhari, P.S. Chandi, District - Nalanda
29. Rajesh Jamadar Son Of Radhey Jamadar Resident Of Village - Mukimpur, P.S. - Chandi, District - Nalanda
30. Rajeev Ranjan Son Of Ram Narayan Prasad Resident Of Village - Hasanchak, P.S. - Hasanchak, District - Nalanda
31. Dhananjay Kumar Son Of Surendra Kumar Resident Of Village - Hasanchak, P.S. - Harnaut, District - Nalanda
32. Mithilesh Kumar Son Of Siya Saran Prasad Resident Of Village - Jaithipur, P.S. Chandi, District - Nalanda
33. Awadhesh Kumar Son Of Sidheshwar Prasad Resident Of Village - Ratan Bigha, P.S. - Silaw District - Nalanda
34. Ajay Kumar Son of Indrajeet Prasad Resident Of Village - Salapur, P.S. Patna, District - Patna
35. Vidyawati Kumari Daughter Of Dharmendra Kumar Resident Of Village - Ganipur, P.S. Hilsa, District - Nalanda
36. Umesh Paswan Son Of Anup Paswan Resident Of Village - Makdumpur, P.S. Karai Parsurai, District - Nalanda
37. Purushottam Kumar Son Of Kamal Kishore Sharma Resident Of Village - Pasari, P.S. - Chandi, District - Nalanda
38. Vikash Kumar Son Of Ramchandra Singh Resident Of Village - Baida Bigha, P.S. Chandi, District - Nalanda

.... Respondents

Appearance :

For the Petitioner/s : Mr. Siya Ram Sahi & Mr. Hansraj, Advocates.

For the respondents : Mr. Anand Kumar Ojha, Advocate.

For the State : Mr. Ashish Kumar Lal, AC to GA-XII.

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR

MANDAL

ORAL ORDER

21. 20-01-2015 Altogether 25 writ petitioners have filed the present writ application for quashing the order dated 04.04.2011 passed by the District Teachers Employment Appellate Authority, Nalanda (for short 'the Authority') in case nos. 133 of 2011 and



analogous cases (Annexure-7), the order dated 14.11.2011 passed in case no. 231 of 2011 and analogous cases (Annexure-12) as also the order dated 18.7.2012 passed on the application of the petitioners by the Authority as contained in Annexure-9. Be it noted that the petitioners filed the application (Annexure-10) which came to be disposed of by order dated 18.07.2012 (Annexure-9). For better appreciation this Court would extract in extenso the order passed by the member of the Authority on 18.7.2012:-

“A petition has been filed by Ravindra Kumar Singh S/o late Shital Prasad and others(Twenty in numbers) making allegation that irregularity/illegality has been committed by the Appointment Authority in the appointment of teacher in the Chandi block. They filed photocopy of the order passed in appeal No. 184/2010 and appeal No. 310/2010. These orders were passed by Sri Vishwanath Pathak another member of the Appellate Authority. Before I joined here blocks were divided between the two members. Seven blocks were retained by my predecessors and the appeals of remaining thirteen blocks were being disposed of by Vishwanath Pathak. I am in seisin of the appeals pertaining to Chandi block. On 14.11.2011 I disposed of seven appeals, namely, appeal No. 231/011, 206/011, 234/011, 230/011, 209/011, 251/011, 201/011. I also disposed of appeal No. 133/011, 239/010, 243/010 on 4.4.010. In the light of letter No. 7/नि 3-02/06 अंश ‘क’ 207 दिनांक 21/02/011 I passed order in respect of all candidates whose counseling had been done, who found place in merit list



and whose certificates were verified and found genuine by competent authority. The petitioner says that when such order was passed then there was no occasion for Sri Vishwanath Pathak to pass order in respect of same block. Their prayer is to set aside the order passed by other member. Be that as it may I personally feel that under law I can't set aside the order passed by other member who has similar power. With this observation this petition is disposed of. ”

A further prayer has been made to direct the respondents to cancel all the appointments made by the selection committee of Chandi Block and appoint the petitioners as Block Teachers as per their merit position. Relevant facts pleaded in the writ petition in the backdrop of which the writ petition has been filed merit notice with relevant brevity.

The petitioners claimed to be the applicants for appointment as Block Teachers in the 2nd phase of selection/appointment undertaken by the selection committee of the Block in-question. 24.01.2009 was the date fixed for counseling. They claimed to have presented themselves for counseling but not selected and appointed. Some of the applicants who were not selected filed a case before the Authority vide case no. 184 of 2010. The Authority, on a consideration of the submissions of the parties, directed the selection committee to appoint the applicants after due counseling which was scheduled

but could not take place due to law and order situation created by the applicants. The Government fixed 28.12.2010 as the date of counseling for such selection. In another proceeding before the Authority vide case no. 133 of 2011 and analogous cases the Authority directed the respondent to take steps for fresh distribution of appointment letters which confined to only those who had figured in the merit list after counseling held on 28.12.2010 and their documents were verified. It is the contention of the petitioners that some other applicants subsequently moved the Authority in case no. 184 of 2010 wherein the Authority directed to arrange for their counseling in accordance with the guidelines and pass appropriate orders. Be it noted that the aforesaid order is not under challenge in the present writ application. In such background, the petitioners filed an application (Annexure-10) raising a general grievance that in the matter of selection of Teachers large scale illegalities were committed by the selection committee, and as such, entire selection process be cancelled and they be directed to be appointed as per their position(s) in the merit list. The Authority, having regard to the facts stated in the said application, considered it to be an application seeking review of the two previous orders passed by the Authority on 14.11.2011 and 04.04.2011. For the reasons

stated in the order the Authority did not find any merit and disposed of the said application (Annexure-10).

Heard Mr. Siya Ram Shahi counsel for the petitioners, Mr. Anand Kumar Ojha for some of the private respondents, AC to GA-XII for the State and Mr. Rabindra Prasad Singh for the private respondent no.25. Two counter affidavit(s) have been filed each on behalf of the respondent no.3 and respondent no.4. No rejoinder has been filed by the petitioners.

The counsel for the petitioners has submitted that in making selection/appointment the selection committee committed large scale illegalities. In connection therewith a criminal case was also lodged. Relying on Annexure-11 which is a police report submitted by the Inspector of Police, Chandi and addressed to the Superintendent of Police, Nalanda, it has been contended that in view of the large scale illegalities found and enlisted therein which were committed in course of selection the entire selection process merits to be cancelled and a fresh exercise be directed to be carried out.

Per contra, Mr. Ojha, learned counsel referring to the statements in the counter affidavit has submitted that the pleadings made in the writ petition are totally vague. All applicants who have been appointed have not been made parties to the present



writ application. Some of the respondents herein were not even selected and appointed yet they have been made parties. Referring to the counter affidavit filed on behalf of the another set of private respondent, it has been contended that some of the petitioners were not even the applicants for the post. In his submission the pleadings of the writ petition are full of suppression of facts and raise questions of fact which are seriously disputed by the respondents. No relief, therefore, can be granted to the writ petitioners. He relies in this regard on paragraph nos. 4 and 5 of the counter affidavit filed on behalf of the respondents. Referring to the order dated 04.04.2011 passed by the Authority, it has been submitted that the same was a consent order wherein it was admitted that a law and order situation had arisen on the date of counseling. In such view of the matter, the Authority passed the order to hold counseling of the applicants and thereafter pass appropriate orders in accordance with law. Immediately after passing the said order no application was filed by the petitioners raising the grievance as raised in the present application before the Authority. If the petitioners had been really deprived of the benefit of the order dated 18.02.2011 they could have filed similar application before the Authority or a proceeding before this Court. For the reasons best known to the



petitioners no such application raising the said grievance was filed. In the meantime, some other applicants filed two applications before the Authority one of which came to be disposed of by order dated 14.11.2011 (Annexure-12) wherein a general order was passed that those who were deprived of such counseling should be considered for re-counseling. The writ petitioners did not get the benefit of that order. Obviously because they were not interested and/or not even the applicants for the post in the Block in question. In the mean time, another application was filed before the Authority which came to be disposed of on 18.2.2011 (Annexure-8) which has not been questioned in the present writ application and therefore has attained finality. The order passed on 04.04.2011 (Annexure-7) is the basis for passing the order dated 14.11.2011 (Annexure-12) which has already attained finality. Drawing attention of the Court to the said order dated 14.11.2011 (Annexure C/1) to the counter affidavit it has been submitted that pursuant to the order dated 04.04.2011 one Puroshottam Kumar was appointed who was applicant of Case no. 230 of 2011. His appointment was challenged by another person which was considered and set aside by the Authority. Against the said order Puroshottam Kumar filed a writ petition vide C.W.J.C. No. No. 19680 of 2012. The said



writ petition was considered wherein diverse orders passed by the Authority in earlier proceedings were noticed by this Court. Finding no fault with the order terminating the service of Puroshottam Kumar, the writ petition was dismissed against which a writ appeal was unsuccessfully filed. It has, thus, been submitted that on the basis of half baked pleadings no relief can be granted to the writ petitioners particularly when serious disputed questions of facts are involved. Two orders of the Authority have been made impugned whereas another order passed by the Authority (Annexure-8) is not even under challenge in the present writ application. The petitioners have not made necessary pleadings regarding preparation of any merit list in which they ever figured. Similar mistakes have been committed in impleading the respondents. Some of those who were not selected and/or even applicants have been made respondents in the present writ application. In view of above the writ jurisdiction under Article 226 of the Constitution of India should not be invoked.

I have perused the rival pleadings and considered the submissions.

The writ petitioner does not state as to who among the private respondents have been selected and appointed ignoring the better claim of the petitioner(s). It has been alleged that they

were applicants for the post(s) in question under the said Gram Panchayat and participated in the counseling on the date(s) fixed by the Government for the State of Bihar. The writ petitioners claimed to have been counseled on 24.01.2009 but no appointment letter was issued to them. It thus appears that there is no pleading about preparation of merit list figuring the name of the petitioners have been stated. Further there is no explanation about non- filing of application before the Authority or before this Court when they were denied the appointment. On perusal of the application filed by them (Annexure-10) before the Authority it appears that on general allegation they sought cancellation of the entire selection made by the selection committee. It is to be noted here that in the meanwhile at least three proceedings came to be filed before the Authority concerning the selection/appointment of Panchayat Teacher which were disposed of. One of the orders subsequently passed by the Authority came to be challenged before this Court, as seen above, when this Court noticing the facts of the case and diverse orders passed by the Authority rejected the writ petition which was appealed against and the writ appeal was also rejected. The claim of the petitioners is based on a police report (Annexure-11). The opinion expressed therein would not be of much consequence in deciding the dispute raised

in this case on the strength of pleadings made in the writ petition. It is further found that such claim of the petitioner was raised rather belatedly and was considered as a request to undo the previous orders passed by the Authority one of which was a consent order whereas one writ petition arising therefrom before this Court was considered and dismissed. The Authority appreciating the contents of the application found them to be a request for undoing of the previous orders passed by it and rightly disposed of the same granting no relief. Taking into account the aforesaid facts, this Court on the basis of the pleadings available on record would not invoke its extraordinary and discretionary writ jurisdiction to grant the relief as prayed for. Furthermore several facts stated and disputed by the answering respondents cannot be appreciated in writ jurisdiction. The application, therefore, merits to be dismissed. I order accordingly.

No order as to costs.

(Kishore Kumar Mandal, J)

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