

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1429 of 2016

IN

Civil Writ Jurisdiction Case No. 2346 of 2013

- =====
1. Bibi Roushan Ara, wife of Md. Sarfraz Alam, resident of village - Mangachak, P.S. Sanhaula, District – Bhagalpur.
 2. Md. Saukat Ali Ahmad, Son of Md. Sarif Ansari, resident of Village Milki Dustani, P.S. Dhoraia, District - Banka at present working as Teacher in Primary School Srichak, P.S. Sanhaula, District – Bhagalpur.
 3. Bipula Devi, wife of Bindeshwari Prasad Das, resident of village - Manharadekh, P.S. Dhoraia, District - Banka at present working as Teacher in Primary School, Azampur, P.S. Sanhaula, District – Bhagalpur.
 4. Asama Ara, daughter of Ramjan Ali Ansari, resident of village - Bhurhia, P.S. Sanhaula, District - Bhagalpur at present working as Teacher in Urdu Middle School, Manga Chak, P.S. Sanhula, District – Bhagalpur.
 5. Supria Kumari, wife of Umesh Chandra Singh at present working as Teacher in Urdu Primary School, Bakhadda, P.S. Sanhaula, District – Bhagalpur.
 6. Yogesh Kumar, Son of Parma Nand Harijan at present working as Teacher in Primary School, Udhamadih, P.S. Sanhaula, District – Bhagalpur.
 7. Md. Mustafa Ali, Son of Shekha Hamid at present working as Teacher in Primary School Udhamadih, P.S. Sanhaula, District – Bhagalpur.

.... Appellants

Versus

1. Sanjay Kumar Sangam, Son of Sri Bhagwan Das, resident of village - Tarar, P.S. Sanhaula, District – Bhagalpur.
2. The State of Bihar
3. District Teacher Employment Appellate Tribunal, through its Member, Bhagalpur.
4. The Block Development Officer, Sanhaula, District Bhagalpur.
5. Panchayat Secretary, Gram Panchayat Kamalpur Srichak, P.S. Sanhaula, District – Bhagalpur.
6. Md. Mustafa, Son of Kasim Kazi resident of village - Manachak, P.S. Sanhaula, District - Bhagalpur at present working as Mukhia of Gram Panchayat Kamalpur Srichak, P.S. Sanhaula, District – Bhagalpur.
7. Rajendra Prasad Singh, Son of not known the then Panchayat Secretary, Gram Panchayat Kamalpur Srichak at present working in Gram Panchayat Madhopur, P.S. Sanhaula, District - Bhagalpur

.... Respondents

=====

Appearance:

For the Appellants	:	Mr. Purshottam Kumar Jha, Advocate Mr. Ajay Kumar Jha, Advocate
For the Respondents	:	Mr. Sarvesh Kumar Singh, AAG 13 Mr. Ravi Kumar, AC to AAG 13

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 25-11-2016

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

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 4th of April, 2016 in CWJC No. 2346 of 2013 whereby the learned Single Bench did not interfere with the order dated 9th of October, 2012 passed by the District Teachers Employment Appellate Authority. But the Learned Single Judge found that there is prima facie findings and materials of the fraud being committed in respect of selection and appointment made in the Gram Panchayat including the appointment of the appellant, in view the affidavit filed on behalf of the Senior Superintendent of Police, Bhagalpur of registration of an FIR bearing Sanhaua P.S. Case No. 14 of 2015 dated 23rd of March, 2015. Therefore, the Court directed that fresh selection process be initiated after dispensing the services including that of the appellant.

3. Admittedly the appellant is on bail in the said case, but it is equally true that the criminal proceeding stands on different footing than the departmental proceeding. The services of the appellant can be terminated though there is no conviction. Mere pendency of a criminal case is no reason to terminate the services. On the other hand, the District Teachers Employment Appellate Authority has dismissed the appeal of Sanjay Kumar Sangam but not interfered with

the appointment of the appellants. Thus in civil proceedings, the Appellate Tribunal has not interfered with the order of appointment. Thus, merely on the basis of a First Information Report lodged there cannot be any finding of fraudulent appointment of the appellants when no such finding has been recorded by the District Teachers Employment Appellate Authority.

4. Therefore, we dispose of the present appeal by setting aside the direction of the learned Single Bench to the effect that the appointment process shall be initiated afresh and the direction to the authorities to fill up the posts. The Panchayat Teachers who have been appointed on 21.11.2011 shall be reinstated, if their services have been terminated, subject to the decision of the criminal case arising out of Sanhaua P.S. Case No. 14 of 2015. The appellants or such other similarly situated candidates shall not be entitled for salary for the interregnum period. The decision regarding salary shall be taken by the competent authority after the conclusion of the criminal proceedings.

(Hemant Gupta, ACJ)

Chandran/Ibrar

(Vikash Jain, J)

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	01.12.2016
Transmission Date	N.A.