

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13188 of 2014

Kumari Poonam, wife of Sri Amit Kumar, Daughter of Late Surendra Dubey, resident of Village + P.S.- Dumaria Ghat, Block- Sangrampur, District- East Champaran, Posted as Government Primary School, Nonia Tola under Semuapur Panchayat, District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Commissioner cum Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The District Magistrate, East Champaran at Motihari
3. The District Programme Officer (the District Superintendent of Education), East Champaran, Motihari.
4. The Block Development Officer at Keshariya, East Champaran.
5. The Block Education Officer, Keshariya Block, East Champaran.
6. The Mukhiya Cum Chairman of Semuwapur Panchayat Teacher Selection Committee, East Champaran.
7. The Panchayat Secretary, Gram Panchayat, Semuwapur Panchayat, Block- Keshariya, East Champaran.
8. Banarsee Kumar Sahni, Son of Sri Laksman Sahni, Resident of Village- Semuwapur, P.S. Dumaria Ghat, District- Motihari (East Champaran).

.... Respondents

with

Civil Writ Jurisdiction Case No. 5996 of 2015

Banarsi Kumar Sahani, aged about 29 years, son of Lakshman Sahani, Resident of Village-Sembhuapur, P.S.- Dumariyaghat, District-Motihari, East Champaran.

.... Petitioner

Versus

1. The State of Bihar;
2. The Principal Secretary, Department of Human Resources, Development Department, Govt. of Bihar, Patna
3. The District Magistrate, East Champaran, Motihari.
4. The District Programme Officer, East Champaran at Motihari.
5. The Block Development Officer, Keshariya, East Champaran at Motihari.
6. The Block Education Officer, Keshariya, East Champaran at Motihari.
7. The District Teachers Employment Appellate Tribunal East Champaran, at Motihari, through its Member.
8. The Mukhiya-cum-Chairman of Niyojan Ikai (Employment Committee), Gram Panchayat Raj, Sembhuapur, Block Keshariya, East Champaran at Motihari.
9. The Panchayat Secretary, Gram Panchayat Raj, Sembhuapur, Block Keshariya, East Champaran at Motihari.
10. Kumari Poonam, wife of Sri Amit Kumar, D/o Late Surendra Dubey, Resident of Village and P.S.- Dumariya, Ghat, Block -Sangrampur, District-East Champaran, at Motihari.
11. Munni Kumari, D/o Late Raghunath Prasad, Resident of Village Baraharwa, Khud, P.O.-Sembhuapur, Distt- East Champaran at Motihari.

.... Respondents

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Appearance :

(In CWJC No. 13188 of 2014)

For the Petitioner/s : Mr. Ravindra Kumar Shukla, Advocate
: Mr. Gyan Prakash, Advocate
For the Respondent/s : Mr. S. K. Singh, AC to GP1
: Mr. Baxi S.R.P. Singh, Sr. Advocate
: Mr. Anand Kishore Choudhary, Advocate

(In CWJC No. 5996 of 2015)

For the Petitioner/s : Mr. Baxi S.R.P. Singh, Sr. Advocate
: Mr. Anand Kishore Choudhary, Advocate
For the Respondent/s : Mr. SC20-DR. A.K. U PADHYAYA
: Mr. Gyan Prakash, Advocate
: Mr. Sharwan Kumar, Advocate
For Respondent no.11: Mr. Sanjeev Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 28-03-2016

Heard learned counsel for the petitioners and the respondents.

2. Both C.W.J.C. No. 13188 of 2014 and C.W.J.C. No. 5996 of 2015 have been tagged together for hearing and disposal.

3. The petitioner, namely, Kumari Poonam, of C.W.J.C. No. 13188 of 2014 has challenged letter no. 2, dated 28.05.2014, issued by the Panchayat Secretary, Gram Panchayat Raj, Semuwapur, whereby direction has been issued to appoint private respondent no.8, Banarsee Kumar Sahni, by declaring her certificate to be forged. The petitioner, namely, Kumari Poonam, of C.W.J.C. No. 13188 of 2014 has also prayed for release of her salary.

4. The petitioner, namely, Banarsi Kumar Sahani, of C.W.J.C. No. 5996 of 2015, has prayed for quashing the order, dated

02.02.2015, passed by the District Appellate Authority, East Champaran in Case No. 927 of 2015, by which the appellate authority has refused to entertain the application for setting aside the order passed by the District Education Officer, East Champaran, Motihari, dated 24.10.2014, which impliedly directed for withholding of his salary.

5. The petitioner, namely, Banarsi Kumar Sahani, of C.W.J.C. No. 5996 of 2015, seeks permission to withdraw his application, as his grievance has been redressed. Permission is accorded and C.W.J.C. No. 5996 of 2015 is dismissed as withdrawn.

6. This leaves us with C.W.J.C. No. 13188 of 2014.

7. It appears that selection process started for filling up 7 posts of Pachayat Teachers in Gram Panchayat Raj, Semuwapur, Keshariya in the district of East Champaran in the year 2006. Both petitioner and the private respondent, Banarsi Kumar Sahani, claimed to have applied. Six of the seven posts of Panchayat Teachers were filled up by the candidates of different categories. Only one post of unreserved female remained vacant. The employment committee decided to fill up the unreserved post from the list of candidates having more than 60 % marks in Intermediate. As no candidate was available, the same was lowered to 45% with more than 60% marks. The petitioner having more marks than private respondent no.8 was

selected for appointment.

8. Being aggrieved, one Munni Kumari challenged the selection of the petitioner Kumari Poonam before the appellate authority, in which Banarsi Kumar Sahani was also made a party. The appellate authority held the appointment of the petitioner Kumari Poonam as bad and illegal, and directed respondent Panchayat Secretary to appoint respondent no.8, next in merit, in her place.

9. Being aggrieved, Kumari Poonam, filed C.W.J.C. No. 9288 of 2012. After hearing the parties, the matter was remitted to the appellate authority with a direction to issue notice to all concerned. The writ application was thus disposed of by order, dated 15.05.2012 without disturbing the order of the appellate authority. The relevant extract of order, dated 15.05.2012 is quoted herein below for easy reference:

“In the circumstances, this Court does not find any ground to interfere with the order of the Appellate Authority. However, this much is clear that after trained candidates were appointed, Committee decided to send notices to untrained candidates empanelled and included in the merit list, but it did not find any material on record that notices were issued to the untrained teachers included in the merit list.

In view of the findings, the Appellate Authority instead of cancelling appointment of petitioner



and directing for appointment of respondent no.9, it should have issued notices to all untrained candidates appointed pursuant to the said decision of the Employment Agency and after hearing them should have considered cancellation of their appointment and to direct the Employment Agency to fill up the vacancies in accordance with law after due notice to all the candidates empanelled and included in the merit list.

In the circumstances, without setting aside the order of the Appellate Authority, the matter is remitted back to the Appellate Authority to reconsider the matter in view of its findings. If the Appellate Authority proposes to pass a fresh order in the light of the order of this Court, it shall issue notice to all untrained teachers appointed in the Panchayat pursuant to the resolution of the Employment Agency dated 14.10.2006 and subsequent resolutions. In the process, it was open to it to examine the case of the said Banarasi Kumar Sahani also. The Employment Agency shall pass necessary orders in accordance with law in this regard preferably within three months from the date of receipt/production of a copy of this order.

This writ application is disposed of with the aforesaid observations and directions.”

10. It appears that both Munni Kumari and Kumari

Poonam challenged the order, dated 15.05.2012 passed in C.W.J.C. No. 9288 of 2012, before the Division Bench of this Court giving rise to L.P.A. No. 1157 of 2012 and L.P.A. No. 1427 of 2012, which did not interfere with the order of the writ Court, dated 15.05.2012.

11. The appellate authority after hearing the parties vide order, dated 9.1.2013 directed that Munni Kumari be appointed in place of Kumari Poonam and Kumari Poonam be appointed in place of Banarsi Kumar Sahani. The Panchayat Employment Unit was directed to comply with the order within 60 days.

12. On remand of the matter, the Panchayat Employment Unit came to the conclusion that the certificates produced by Kumari Poonam was forged and fabricated and as such cancelled her appointment and appointed Banarsi Kumar Sahani against the said post by order dated 28.05.2014, which is under challenge in this writ application.

13. The petitioner submits that the Panchayat Employment Unit exceeded its jurisdiction by not implementing the order of the appellate authority. The petitioner further submits that on merit also, the Panchayat Employment Unit erred in coming to the conclusion that her certificates were forged and fabricated. The petitioner submits that the Panchayat Employment Unit did not consider the clarificatory notes with respect to the genuineness of the



certificates referred to in letters dated 17.09.2014 and 24.10.2014 of the District Education Officer, East Champaran, Motihari. Learned counsel also submits that the Panchayat Employment Unit ought not to have given any relief to respondent no.8, as he withdrew the writ application filed against the order of the appellate authority dated 09.01.2013, passed in Case No. 874 of 2012.

14. Mr. Baxi, learned senior counsel appearing for respondent no.8 submits that as the Panchayat Employment Unit found the educational certificates of Kumari Poonam (petitioner) to be forged, rightly appointed respondent no.8 in her place, being next in the merit list. As his grievance stood redressed, no cause remained to challenge the order of the appellate authority.

15. Counsel for the State submits that since the certificates of the petitioner was found to be forged and fabricated by the Panchayat Employment Unit, the petitioner was not appointed and respondent no.8 was appointed in her place.

16. One of the pivotal points raised by the petitioner is that the Panchayat Teacher's Selection Committee erred in coming to the conclusion that her educational certificates were forged. It is the further case of the petitioner that the Panchayat Teacher's Selection Committee did not take into consideration the clarificatory notice of the District Education Officer, East Champaran, Motihari as contained

in letters dated 17.09.2014 and 24.10.2014.

17. On the other hand, counsel for respondent no.8 contested that in case the petitioner is aggrieved, there is an alternative remedy of appeal.

18. In view of the nature of the dispute, I am not persuaded to interfere with the impugned order. The petitioner, if so advised, may file a representation before the Panchayat Teacher's Selection Committee/Appellate authority in support of her submissions stating that her educational certificates are not forged, but genuine. It will be also open for the petitioner to bring on record any document, which she may like to produce in support of her contention. In case, any such representation is filed, the Panchayat Teacher's Selection Committee would dispose of the same after providing hearing to all the affected parties.

19. With the aforesaid observation and direction, this application stands disposed of.

(Samarendra Pratap Singh, J.)

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