

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.52 of 2016
IN
Civil Writ Jurisdiction Case No. 2694 of 2014**

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Md. Ser Ali Son of Late Md. Nezamuddin Ansari, Resident of Village - Sikthi,
Police Station - Dhansoi in the district of Buxar.

.... Appellant

Versus

1. The State of Bihar through its Secretary.
 2. The Director, Primary and Middle School, Old Secretariat, Patna.
 3. The District Magistrate, Rohtas at Sasaram.
 4. The District Superintendent of Education, Rohtas.
 5. The Block Development Officer, Kargahar Block, Rohtas.
 6. The Block Education Extension Officer, Kargahar Block, Rohtas.
 7. The Mukhiya, Baksara Ram Panchayat under Karagahar Block, Rohtas.
 8. The Panchayat Sevak, Baksara Gram Panchayat under Karagahar Block, Rohtas.
- Respondents
- =====

Appearance :

For the Appellants : Mr. Sunil Kumar, Advocate
For the Respondents : Mr. R.B. Prasad Yadav, AAG 11
Mrs. Archana, AC to AAG 11

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 17-11-2016

Heard learned counsel for the appellant 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 3rd of March, 2014 in
CWJC No. 2694 of 2014 whereby the challenge to the order passed by
the District Teachers Employment Appellate Tribunal, Rohtas at
Sasaram on 23rd of December, 2013 remained unsuccessful.

3. The appellant joined as Urdu Panchayat Teacher on 14th



of August, 2010 on the basis of the educational qualification of Maulvi from Bihar State Madrasa Board. But he was removed from his service on account of forged educational qualification certificate from the post of Panchayat Teacher. In fact, the appellant has obtained 805 marks i.e. 67.08% marks. The appellant filed an appeal before the Appellate Tribunal which called for a report from the Gram Panchayat and found that he was appointed on the basis of the mark sheet showing 1003 marks out 1200 i.e. 83.58% marks. It was also found that there was cutting in the total marks and the percentage. It was also found that the appellant was appointed on the basis of 83.58%/84 marks which is illegal as he obtained 805 marks i.e. 67.08% marks.

4. The challenge to the order passed by the Appellate Tribunal remained unsuccessful before the learned Single Bench which recorded the following findings :-

“If the petitioner is so sanguine about his claim that he has filed his application and the mark-sheet showing to have acquired only 805 marks in the Intermediate, he can always go to the Civil Court for demonstrating that the allegation of forgery against him is incorrect but for the time being this Court must approve the finding of the Tribunal for a simple reason that it had made all efforts to find out from the connected record that the petitioner had obtained his appointment by playing fraud and claiming to have acquired 1003 marks out of 1200. The very fact that there were number of candidates having higher marks than him, would be by itself an evidence of

omission of allegation that none else could have done it, but the petitioner himself, being the beneficiary of such forgery/fraud.”

5. Before this Court, learned counsel for the appellant raised an argument that there was no forgery at his instance and that in fact, the candidates senior in the merit list i.e. Annexure-4 did not appear for counselling, therefore, the appellant was appointed in order of merit on the basis of the marks obtained i.e. 67.08 % marks.

6. We have heard learned counsel for the parties and find no merit in the present appeal. The fact is that no such plea that the candidate higher in merit did not appear in the counselling was raised before the Appellate Tribunal. The order does not show that any such plea was taken by the appellant before the Tribunal. Therefore, the plea raised in the writ petition that the other candidates who are more meritorious than the appellant did not appear for counselling is an afterthought.

The learned Tribunal has recorded a finding of fact after perusing the record that there was interpolation in the marks of the appellant as 83.58% marks though he factually obtained 67.08% marks. The appellant does not dispute that the marks obtained by him is 67.08% marks. With such merit, he is not one of the meritorious candidates suitable for appointment. Therefore, the fact that he was

appointed on the basis of the marks reflected in the marks sheet i.e. 83.58% marks is on account of interpolation in the mark sheet. The sole beneficiary of such interpolation is the appellant alone.

7. Therefore, we do not find any error in the order of the learned Single Bench which may warrant any interference by this Court. The Letters Patent Appeal is accordingly dismissed.

(Hemant Gupta, ACJ)

B.T/-

(Vikash Jain, J)

AFR/NAFR	NAFR
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