

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11401 of 2015

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1. Archana Kumari W/o Dhananjay Srivastava resident of village - Baherwa, P.O. - Mahuawan, P.S. - Kateya, District - Gopalganj, at present working as a Block Teacher in Upgraded Middle School, Ameya West, Block - Kateya, District - Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The District Education Officer, Gopalganj.
3. The District Programme Officer (Establishment), Gopalganj.
4. The Block Education Officer, Kateya, P.O. Mahuawan, P.S. Kateya, District Gopalganj.
5. The Mukhia, Gram Panchayat Raj Ameya, P.O. Mahuawan, P.S. Kateya, District - Gopalganj.
6. The Secretary, Gram Panchayat Raj Ameya, P.O. Mahuawan, P.S. Kateya, District - Gopalganj.
7. The District Teacher Employment Appellate Authority, Gopalganj.
8. Sangeeta Kumari D/o Sri Ram Parikshan Yadav P.O. + P.S. Kateya, District - Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh
Mr. S K Ranjan

For the Respondent/s : Mrs. Shally Kumari, AC to AAG8

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 24-06-2016

Annexure-5 is the order passed by the District Teacher Employment Appellate Authority, Gopalganj. By virtue of this order dated 09/11/2012 appointment of the present petitioner on the post of a Panchayat Teacher was annulled on the ground that the private respondent No.8 who was complainant before the tribunal had more marks than the petitioner but her claim was deliberately ignored on the spacious ground as she was not available for counseling on the date so fixed.

2. When the tribunal directed the Panchayat Secretary to produce all



the records for verification and corroboration as to the stand taken before the tribunal for non-appointment of the private respondent, the Panchayat Secretary refused or failed to produce any supporting documents. In absence of any evidence which could justify the reason for non-appointment of the private respondent, the tribunal came to a considered opinion that the petitioner was illegally appointed by ignoring the claim of persons having more marks.

3. The main thrust of the argument of the petitioner is that whenever such an order is passed setting aside the appointment of a person having lesser marks, a clear direction ought to be made for fresh appointment after giving opportunity to one and all who had better marks instead of giving a direction in favour of the complainant.

4. In this regard counsel for the petitioner has relied upon a decision rendered in the case of **Prawesh Kumar Das Vs. State of Bihar and others** reported in **2015 (2) PLJR 616**.

5. The proposition urged or pressed into service by the counsel for the petitioner to overcome the decision passed against her by tribunal cannot bail her out from the predicament she is in. The basic finding is that person with more merit had been ignored and present petitioner having lesser marks than the complainant came to be appointed on the specious ground for non-participation in the counseling.

6. The tribunal has passed an order in favour of the complainant because other candidates were not before the tribunal raising a grievance against their non-selection. Even at this juncture such persons who feel that they have a right for such appointment can very well approach the forum or raise a grievance before the appropriate authority. But that by itself cannot form the basis for interfering with the order of tribunal, which will have effect of continuance of the

petitioner on the post of a Panchayat Teacher despite the clear and categorical finding given by the tribunal, in the manner she had been accommodated or appointed.

7. Writ has no merit. It is dismissed as the order impugned does not suffer from any vice.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

AFR/NAFR	NAFR
CAV DATE	
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