

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 7992 of 2011

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Prem Prakash Kumar, son of Shri Sarwesh Kumar, resident of village- - Badalpur,
P.O. – Gowasa, P.S. and Block – Narhat, District - Nawada

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
2. The Director, Primary Education, Human Resources Development Department, Government of Bihar, Patna
3. The Chairman, District Teachers Employment Appellate Authority, Nawada
4. The District Superintendent of Education, Nawada
5. The Block Extension Education Officer, Narhat, Nawada
6. The Mukhiya, Saidapur Gram Panchayat, Block-Narhat, District – Nawada
7. The Panchayat Secretary, Saidapur Grampanchayat, Block – Narhat, District – Nawada
8. Kamesh Kumar, son of Brag Nandan Singh, Village-Hazidhab, P.O. – Pithauri, P.S. and Block – Narhat, Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s :	Mr. Bankey Bihari Singh Mr. Sanjay Kumar Mr. Shailendra Prasad
For Respondent No. 8:	Mr. Jitendra Singh, Sr. Advocate Mr. Harsh Singh Mr. Shashi Bhushan Sharma
For the State :	Mr. S. K. Mishra, AC to AAG-8

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

C.A.V. JUDGMENT

Date: 30-03-2016

Petitioner wants quashing of the order, passed in Case No. 252 of 2010, dated 04.03.2011 by the District Teachers Employment Appellate Authority, Nawada, by virtue of which the tribunal has held the employment and engagement of private respondent no. 8 initially as a Panchayat Shiksha Mitra and then as a Panchayat Teacher to be valid and in order.

Since such a decision has a fall out on the interest of the

petitioner, therefore, he has assailed the said order, contained in Annexure-8 to the writ application.

The main thrust of the argument of the counsel for the petitioner is that the private respondent was dismissed from the post of Panchayat Shiksha Mitra in February, 2006. That the private respondent had used some fraudulent document to show his second extension in Panchayat Shiksha Mitra in the year 2004 and that the present petitioner was appointed on 25.02.2006 and, subsequently, by deeming fiction, he should have been treated to have been confirmed on the post of Panchayat Teacher w.e.f. 01.07.2006.

The Court has gone through the detailed order passed by the tribunal. In addition to that, even private respondent no. 8 has filed a counter affidavit. The Court is prima facie not only convinced that the then Panchayat Secretary of the Panchayat deliberately played mischief with the private respondent no. 8 by not only forging and manipulating the record to show that he was no longer in engagement as a Panchayat Shiksha Mitra to accommodate the present petitioner, but tried his level best to oust him from his right of being made a Panchayat Teacher, when the new rule came into place in the year 2006.

The submission made at the bar on behalf of the petitioner has been gone into by the tribunal. The reason for the so called removal of the private respondent from the post of Panchayat Shiksha Mitra was found to be erroneous and arbitrary by the

tribunal after taking into consideration the evidence and has held that there was adequate evidence that the private respondent had passed the Intermediate examination within 33 months of his engagement as a Panchayat Shiksha Mitra and he should not have been removed in the very first place on that pretext.

The Court does not find any infirmity with the rational and reasoning provided by the tribunal in adjudication of the right or claim, which has been found to be in favour of the private respondent.

The Court, therefore, would not interfere with the impugned order, contained in Annexure-8 as that will also amount to rewarding the petitioner when an arguable right was sought to be created by manipulating the system by the erstwhile Panchayat Secretary of the Panchayat.

Writ has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

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