

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17637 of 2011

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Md.Ejaz Ahmad Ansari S/o Khursheed Ansari R/O, At P.O. Nanpur, P.S.-
Nanpur,Dist.-Sitamarhi

.... Petitioner

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 District Teacher Employment Appellate Authority, Sitamarhi, Dist.-Sitamarhi
4. The District Magistrate, Sitamarhi Distt.- Sitamarhi
5. The District Education Officer, Sitamarhi,Dist.-Sitamarhi
6. The Block education Officer, Nanpur,P.S.-Nanpur,Dist.-Sitamarhi
7. The Mukhiya ,Gram Panchayat Raj Nanpur(North) P.S.Nanpur,Dist.-Sitamarhi
8. The Panchayat Secretary, Gram Panchayat Raj, Nanpur (North),P.S.-Nanpur,Dist.-Sitamarhi
9. Nazmus Salaheen Phakhrush Saleheen R/O Vill.-Sarifpur P.S.-Nanpur,Dist.-Sitamarhi, at present working as Panchayat Teacher, Government Primary School Dhegaul, P.S.-Nanpur, Dist.-Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar
For the Respondent/s : AC to SC – 16
Md. Anisur Rahman

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 28-10-2016 Heard Sri Mrityunjay Kumar, learned counsel for the petitioner, learned A.C. to Standing Counsel – 16 as well as Md. Anisur Rahman, learned counsel, who has appeared on behalf of respondent no. 9.

The petitioner has invoked writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash an order dated 09-08-2011 passed by respondent no. 3 i.e. District

Teacher Employment Appellate Authority (hereinafter referred to as the “District Appellate Authority”) in Case No. 56 of 2011. By the said order, the claim of the petitioner for appointing him as Panchayat Teacher in place of respondent no. 9 was rejected.

It was submitted by learned counsel for the petitioner that petitioner participated in selection process and in view of the fact that he was having 82% marks in the merit list, his name was incorporated. At much belated stage, he noticed that respondent no. 9, who had secured only 81.83 % marks, was appointed and petitioner’s case was ignored. A claim was made by the petitioner that he was not at all intimated regarding the date of counselling and as such, he failed to participate in the counselling. Learned counsel for the petitioner, at the time of argument, has placed reliance on a judgment of this Court reported in **2010 (4) P.L.J.R. 421 (Abhay Kumar Labh vs. The State of Bihar & Ors.)** to show that notice through U.P.C. may not be treated as valid service of notice.

On going through the order of the District Appellate Authority, it is evident that the Appellate Authority, before passing the order, had noticed the concerned party and summoned the record and after examining the record, the District Appellate Authority was satisfied that all the candidates were intimated

through U.P.C. It was also established that petitioner had not participated in the counselling, though a plea was taken that he was not intimated.

The Court is of the opinion that since on examination of record on the basis of fact the District Appellate Authority has passed the order, this Court may not interfere with the order impugned, unless the Court is satisfied that any apparent illegality was committed in taking the decision by the Appellate Authority.

So far as judgment on which reliance was placed, in view of peculiar facts and circumstances, the Court is of the opinion that only on this very ground, the order impugned may not be interfered with.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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