

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12010 of 2011

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Usha Kumari wife of Arun Kumar resident of House No. 358 Shanti Vihar Colony, Rajiv Nagar, Road No. 26 District And Town Patna

.... Petitioner/s

Versus

1. The State Of Bihar, Through Principal Secretary, Human Resource Department, Govt. Of Bihar, Patna
2. The Director, Primary Education, Bihar, Patna
3. The District Teacher Employment Appellate Tribunal, Patna
4. The District Superintendent Of Education, Patna
5. The Block Development Officer, Paliganj, Patna.
6. The Block Education Extension Officer, Paliganj, Patna
7. The Mukhiya, Saran Panchayat, Mudika, Paliganj, Patna.
8. The Panchayat Secretary, Gram Panchayat Mudka, Paliganj, Patna
9. The Head Master, Primary School Beldarichak P.O. - Mudika P.S. And Anchal - Paliganj, District - Patna
10. Smt. Renu Singh @Kuari Renu Sinha daughter of Ramvdeswher Singh Village - Baliyari P.O. Singhara P.S. Bikram District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh

For the Respondent/s : Mr. Roy Shivaji Nath AAG3

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 28-10-2016

The sole petitioner has approached this Court with a prayer to quash an order dated 15.1.2011 passed by the District Teacher Employment Appellate Tribunal, Patna (hereinafter referred to as “District Appellate Tribunal”). She has further prayed for directing the respondents particularly the respondent no. 9 to permit her to continue as teacher in her School and pay salary.

As per pleading the petitioner has claimed that she participated in the selection process which was initiated in the year



2008. Subsequently vide Annexure – 7 she was intimated that she was selected for being appointed as panchayat teacher in Primary School Beldarichak and she was asked to give her consent regarding joining. She claims that pursuant to Annexure- 7 she submitted joining report and her joining was accepted in the concerned school. She continued but immediately within few days after her joining, with effect from 31.8.2010 the In -charge Headmaster of the school restrained the petitioner from putting her signature on attendance register. She made several complaints to the concerned authority and finally she filed an Appeal before the District Appellate Tribunal . Finally vide order dated 15.1.2011 the District Appellate Tribunal refused to pass any favourable order. Thereafter the petitioner has approached this court by filing the present writ petition with the relief which has been indicated hereinabove.

In this case counter affidavit on behalf of the respondent no. 4/ District Programme Officer (Establishment), Patna was filed in the month of August 2012 whereby the respondent concerned claimed that the order of the District Appellate Tribunal was valid since the petitioner joined pursuant to a forged letter. Similarly the respondent no. 1 and 2 have filed a counter affidavit to the extent that against the order of the District Appellate Tribunal the Government has constituted State Appellate Authority. However, in



the counter affidavit it was not indicated as to whether the State Appellate Authority has commenced or not. In this case the respondent no. 7, 8 and 10 have already appeared through their counsel but they have not filed any counter affidavit. Despite valid service of notice the respondent no. 9 i.e. Headmaster, Primary School Beldarichak, P.O. - Mudika, Paliganj, Patna has not appeared. On perusal of the impugned order i.e. Order dated 15.1.2011 passed by Sri Ashok Kumar Singh, I.A.S. (retired), Member, District Appellate Tribunal it is evident that the District Appellate Tribunal had noticed several irregularity rather fraud committed in the selection process. He noticed that one of the candidate namely Kumari Renu Sinha /respondent no. 10 though was member of the Panchayat Samiti and continued in such capacity from 17.6.2006 to 1.6.2010 also became a candidate for panchayat teacher and she was shown selected. Similarly in respect of many other candidates illegality was noticed by the District Appellate Tribunal. So far petitioner's case is concerned it was noticed that on the appointment letter by use of Whitener the petitioner name was incorporated and on that strength the petitioner had joined and subsequently she was stopped to function on the instruction of the concerned Headmaster. Besides rejecting the claim of the petitioner the District Appellate Tribunal had recommended for cancelling the

appointment of respondent no. 10 / Smt. Renu Singh @ Kumari Renu Sinha as well as one Madhuri Kumari .

Learned AC to AAG No. 9 was not in a position to inform the Court as to whether pursuant to the direction of the District Appellate Tribunal the concerned persons were removed or not. On the contrary learned counsel for the petitioner on oral instruction submits that they are still continuing. On perusal of the order passed by the District Appellate Tribunal the Court is satisfied that the District Appellate Tribunal had noticed fraud committed in the selection process. It is true that the claim of the petitioner was not entertained and rejected and he had issued certain directions but this Court is of the opinion that once in a judicial proceeding or quasi judicial proceeding fact regarding commission of criminal offence is noticed, in normal course direction is required to be issued for conducting thorough investigation either after conducting a preliminary enquiry, or on the basis of materials directly F.I.R. can be lodged. In view of the order of the District Appellate Tribunal it is evident that mass illegality was committed in the selection process which requires thorough investigation.

In view of the facts and circumstances the Court proposes to direct the Superintendent of Police, Central Bureau of Investigation , Patna to conduct thorough enquiry and if during enquiry it is found

that it is a case of commission of serious cognizable offences, immediately F.I.R. may be lodged so that entire episode may come to its logical end without unnecessary delay.

The Registry is directed to hand over copy of entire brief duly authenticated to the Officer of the Central Bureau Of Investigation as and when required.

It is made clear that during investigation all the concerned shall render full assistance to the Investigating Agency.

Let a copy of this order be handed over to Sri Bipin Kumar Sinha, learned Standing Counsel for Central Bureau of Investigation forthwith.

The writ petition stands disposed of.

The Court expects that the Investigating Agency may take all steps so that the matter may come to its logical end without unnecessary delay.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30-10-2016
Transmission Date	N.A.