

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4185 of 2013

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1. Arvind Kumar Ram Son Of Sri Mahavir Ram Resident Of Village- Pusaho, P.S. Bithan, District- Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Teachers' Appointment Appellate Authority, Samastipur
3. The District Magistrate-Cum-District Officer, Samastipur
4. The Deputy Development Commissioner, Samastipur
5. The District Education Officer, Samastipur
6. The Block Education Extension Officer, Bithan Block, Distt. Samastipur
7. Dilip Kumar Paswan Son Of Ram Badan Paswan Resident Of Village- Parari, P.S. Bithan, Ujan Panchayat, Bithan Block, Distt. Samastipur
8. The Block Development Officer, Bithan Block, District Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. ALOK KUMAR SINHA- I, Sr. Advocate
Mr. Bholka Kumar,
Mr. Ashish Sinha, Advocates.

For Respondent No.7 : Mr. Rajeev Kumar Singh, Advocate.

For the State : Mr. Dr. Raj Kumar Singh, AC to SC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 12-01-2016

Heard learned counsel for the petitioner, learned counsel
for the State and respondent no.7.

2. This writ petition has been filed for quashing the order dated 15.10.2011 passed by the District Teachers Appointment Appellate Tribunal, Samastipur by which claim of the petitioner for his appointment on the post of Prakhanda Shikshak in Bithan Block has been rejected.

3. The present issue has been raised with regard to

deprivation of the petitioner from his appointment to the post of
Prakhand Teacher in connection with second phase of
appointment started in 2008.

4. Learned counsel for the petitioner submits that petitioner
has obtained 66.11% marks whereas respondent no.7 has only
obtained 66% marks but his case was ignored. The Tribunal has
wrongly recorded a finding that respondent no.7 has no lesser
mark than the petitioner.

5. Learned counsel for private respondent submits that
present writ petition is not maintainable in view of the fact that
during pendency of the case, respondent no.7 was appointed
which was never challenged before the appellate court.

6. From perusal of the order of the Tribunal it appears that
Tribunal has recorded the case of the petitioner and respondent
no.7 and by one line order he has rejected the case of the
petitioner. It appears that Tribunal has not applied its judicial
mind.

7. It is well know principle of law quasi judicial authority
must pass a reasoned order, if he fails to record reason,violates
the principle of natural justice, reliance may be placed on the
judgment of the Hon'ble Supreme Court in the case of Chairman
and Managing Director, United Commercial Bank and others, reported in

(2003) 4 SCC 364 where Hon'ble Supreme Court held that every administrative or quasi judicial body must give reason in the order. It will be relevant to quote relevant portion of paragraph 15 of the aforesaid judgment:

“....Even in respect of administrative orders Lord Denning, M.R. in Breen v. Amalgamated Engg. Union observed: (All ER p.1154h) “The giving of reasons is one of the fundamentals of good administration.” In Alexander Machinery (Dudley) Ltd. v. Crabtree it was observed: “Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.” Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the “inscrutable face of the sphinx”, it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The “inscrutable face of a sphinx” is ordinarily incongruous with a judicial or quasi-judicial performance. But as noted above, the proceedings commenced in 1981. The employee was placed under suspension from 1983 to 1988 and has superannuated in 2002. Acquittal in the criminal case is not determinative of the commission of misconduct or otherwise, and it is open to the authorities to proceed with the disciplinary proceedings, notwithstanding acquittal in the criminal case. It per se would not entitle the employee to claim immunity from the proceedings. At the most the factum of acquittal may be a circumstance to be considered while awarding

punishment. It would depend upon the facts of each case and even that cannot have universal application.”

8. In this view of the matter, order dated 15.10.2011 passed by the District Teachers Appointment Appellate Authority, Samastipur is set aside and matter is remitted back to the Tribunal to pass a reasoned order on all the points raised by the parties. The Tribunal will take decision within a period of six months from the date of receipt/production of a copy of this order.

10. Accordingly this writ petition is allowed.

(Shivaji Pandey, J)

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