

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4632 of 2011

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Upendra Kumar Singh, S/O Sri Jai Nandan Singh, R/O Vill-Moglani Chak,
Panchayat-Kosut, P.S.Dhanarua, Distt-Patna

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna
2. The Director, Primary Education, Govt. of Bihar, Patna
3. The District Teachers Employment Appellate Authority, Patna through its Member
4. The District Magistrate, Patna
5. The District Superintendent of Education, Patna
6. The Block Education Officer, Dhanarua, Patna
7. The Block Development Officer, Dhanaura, Patna
8. The Mukhiya, Panchayat Raj Kosut, Dhanarua, Distt-Patna
9. The Panchayat Secretary, Panchayat Raj Kosut, Dhanarua, Distt-Patna
10. Anuchi Kumari, W/O Sri Amit Kumar, R/O Vill-Mogalan Chak, P.O.Kosut, P.S. Dhanarua, Distt-Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Krishna Kant Singh, Advocate
For the Respondents : Mr. S.Raza Ahmad, AAG-9
Mr. Md. Anisul Haque, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 18-04-2016 Heard counsel for the petitioner as well as learned
counsel appearing for the State.

The petitioner prays for setting aside the order, dated 22.06.2015, passed by the Member, District Teachers Employment Appellate Authority, Patna, whereby the entire selection of the year 2003 of Panchayat Shiksha Mitra has been cancelled.

The petitioner's case is that he was appointed as Panchayat Shiksha Mitra and was subsequently absorbed as



Panchayat Teacher in view of operation of Rule 20(iii) of Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006. Later on, a complaint was made before the Appellate Tribunal questioning the very selection of some other Shiksha Mitras, who were subsequently absorbed as Panchayat Teachers. The Tribunal, by the impugned order, not only cancelled the appointment of the Panchayat Shiksha Mitra, whose selection was questioned, but cancelled the entire selection of the year 2003 of Panchayat Shiksha Mitra.

Learned counsel has challenged the impugned order on a number of grounds. One of the grounds is that the impugned order has been passed without providing him an opportunity of hearing. He next submits that the Appellate Tribunal had no jurisdiction to cancel the appointment of Panchayat Shiksha Mitra, who has subsequently been absorbed as Panchayat Teacher.

The fact that the petitioner was not a made a party, is not controverted by the State. Furthermore, once a Panchayat Shiksha Mitra is absorbed as Panchayat Teacher, the Appellate Tribunal would have no jurisdiction to go into the legality or otherwise of such selection. In this regard, reference can made to the judgments of this Court in case of Renu Kumari Pandey and others Vrs. the State of Bihar and others, reported in 2011(4)PLJR 297; and in

case of Kalpana Rani Vrs. State of Bihar & others, reported in 2014(2)PLJR 665.

In the result, the impugned order cancelling the appointment of the petitioner is set aside and the petitioner would be reinstated in service.

The writ application is accordingly allowed.

(Samarendra Pratap Singh, J)

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