

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.305 of 2015

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Jay Shankar son of Sri Nand Kumar Mahto Resident of village- Kerbodha, P.S.
Samastipur Muffasil, Distt. – Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
2. The District Teacher Employment Appellate Authority, Samastipur through its Member
3. The Secretary, Human Resources Development Department, Govt. of Bihar, Patna
4. The Director, District Rural Development Authority, Samastipur
5. The District Magistrate, Samastipur
6. The District Superintendent of Education, Samastipur
7. The Block Development officer, Samastipur
8. The Block Education Extension Officer, Block - Tajpur, District - Samastipur
9. The Mukhiya, Gram Panchayat Raj Rahimabad, Block-Tajpur, District - Samastipur
10. The Panchayat Secretary, Gram Panchayat Raj Rahimabad, Block-Tajpur, District-Samastipur
11. The Headmaster New Primary School, Noorachak

.... Respondent/s

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Appearance:

For the Petitioner/s : Ms. Asha Kumari, Advocate

For the Respondent/s : Mr. Md. Irshad, A.C. to SC-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-09-2016

Heard Ms. Asha Kumari, learned counsel for the petitioner.

Counsel for the State has appeared and prays for time to seek instructions which is refused.

This writ petition was filed in January, 2015 and was heard on 16.8.2016 and thereafter on 23.8.2016 when time was granted to the State, yet no counter affidavit has been filed. A prayer is made

again for adjournment but in the circumstances discussed, the prayer is rejected. The matter has been taken up for consideration with a view to its final disposal and in absence of any effective opposition.

The petitioner is aggrieved by the order bearing letter no. 783 dated 11.5.2010 whereby the respondent no. 4 i.e. the District Rural Development Authority, Samastipur has recommended for cancellation of the appointment of the petitioner and some others from the post of Panchayat Teacher, Gram Panchayat Raj, Rahimabad under Tajpur Block in the district of Samastipur.

This case has its own peculiarity and which stands noted in the order passed on 16.8.2016. A sort of enquiry was initiated in respect of appointment of Panchayat Teacher, Gram Panchayat Raj, Rahimabad under Tajpur Block in the district of Samastipur at the instance of Director, District Rural Development Authority, Samastipur vide Annexure-1 and which was acted upon by the District Magistrate, Samastipur who in turn directed the Superintendent of Education, Samastipur to submit a report and to take appropriate action in this regard vide order present at Annexure-2. The District Superintendent of Education in turn directed the Panchayat Secretary, Gram Panchayat Raj, Rahimabad, Block-Tajpur to carry out enquiry and submit his report vide his letter dated 05.7.2010 present at Annexure-3. In the meanwhile a case was filed



by one Abjaid Kafil which was considered alongwith some other cases by the District Panchayat Teacher Employment Appellate Authority, Samastipur and vide Annexure-A, the appellate authority has directed the appointment committee of the Gram Panchayat to examine the appointments and take appropriate measures. The order of the appellate authority was passed on 05.11.2003. The matter was examined by the Panchayat Secretary in the light of the directions present in the letter of the District Superintendent of Education dated 05.7.2010 (Annexure-3) and the report of the Panchayat Secretary is present at Annexure-11 which is dated 30.7.2010. The Panchayat Secretary after taking note of the order passed by the District Teachers Employment Appellate Authority has expressed his opinion present at paragraph-11 of the letter, which practically approves the appointments. According to the petitioner with no change in circumstance and the appointment having been approved by the Panchayat Secretary, yet he is not allowed to function on the post and hence the writ petition.

As I have observed despite two adjournments being granted to the State, they have not returned with any affidavit. In the uncontested position afore noted, the writ petition is allowed. The District Magistrate, Samastipur, the District Superintendent of Education, Samastipur as well as the Appointment Committee, Gram

Panchayat Raj, Rahimabad, District-Samastipur are directed to allow the petitioner to resume duties in the school where he was posted within 48 hours of the receipt / production of a copy of the order.

Since the petitioner has approached this Court belatedly, I am not inclined to order for payment of any arrears of salary, however, the petitioner would be entitled to his salary from the date of his joining.

(Jyoti Saran, J)

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