

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1638 of 2012

IN

Civil Writ Jurisdiction Case No. 13398 of 2012

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Sunil Das, S/o Sri Yogendra Das, R/o Village-Khairpur, P.S.- Kharik, District-
Bhagalpur

.... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna
3. The District Magistrate, Bhagalpur
4. The Block Development Officer, Kharik Block, Bhagalpur
5. Mukhiya, Usmanpur Gram Panchayat, Kharik Block, District- Bhagalpur
6. Secretary, Usmanpur Gram Panchayat, Kharik Block, District- Bhagalpur
7. Rakesh Ji Alok, S/o Ganauri Mochi, R/o Village Nagar Tola, Chhoti Athania,
P.S. Kharik, District- Bhagalpur
8. District Teachers Employment Appellate Authority, Bhagalpur

.... Respondents

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Appearance :

For the Appellant : Mr. Arjun Kumar, Advocate.

For the Respondent : Mr. Harish Kumar, G.P. 32.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 24-02-2016

Heard learned counsel for the appellant and the State.

2. The challenge in the present Letters Patent Appeal is to an
order passed by the learned Single Judge on 07th August, 2012 in C.W.J.C. No.
13398 of 2012, whereby the writ application filed by the appellant challenging the



order of District Teachers Appointment Appellate Tribunal dated 15th June, 2012 allowing a petition filed by Respondent No. 7 remained unsuccessful. The appellant and Respondent No. 7 along with three others was called for counseling for appointment on 27th January, 2009. The Respondent No. 7 herein was a candidate with higher marks but he was ignored for appointment and the appellant was offered appointment. Against his non-appointment Respondent No. 7 filed a petition before District Teachers Appointment Appellate Tribunal which has been allowed for the reason that a candidate with higher marks cannot be ignored for the purposes of appointment. The sole argument raised by the counsel for the appellant before the learned Single Judge was that the certificates of Respondent No. 7 were not verified. Therefore, in the absence of verification of the certificates, the Respondent No. 7 was rightly not offered appointment.

3. The learned Single Judge has found that there is no pleading in the writ application that Respondent No. 7 has not furnished the requisite affidavit in respect of his documents. There is also no pleading in the writ application that any ground urged has not been considered. The candidature has been considered on the basis of affidavit awaiting confirmation of the certificates. Therefore, the Tribunal has rightly proceeded to allow the application filed by Respondent No. 7.

4. Since the Respondent No. 7 has admittedly obtained more marks than the appellant, and the fact that Respondent No. 7 has filed an affidavit in respect of his certificates, such conduct to the proceedings will not oust Respondent No. 7 from the process of appointment. The appellant who has obtained less marks than Respondent No. 7 has rightly been non-suited by the learned Tribunal. The learned Single Judge has not found any error in the decision making process of the learned Tribunal.

5. We do not find any error in the order of the learned Single Judge which may warrant interference in the present Letters Patent Appeal.

6. The Letters Patent Appeal thus stands dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

P.K.P.

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