

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.86 of 2013

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1. Niranjan Kumar Son of Sri Radhe Yadav Resident of Village- Chaudiha, P.S. And District- Jamui
 2. Pushpa Kumari S/O Sri Naresh Paswan Resident of Village- More, P.S.- Mokama, District- Patna
 3. Ashok Kumar Son of Sri Brahmchari Mahto Resident of Village- Krishnapatti, P.S. And District- Jamui
 4. Premlata Kumari D/O Sri Murari Ram Resident of Village- Aghara, P.S. And District- Jamui
 5. Sangita Kumari D/O Sri Kaushal Kishore Singh Resident of Village- Naubranga, P.S.- Maranchi, District- Patna
 6. Sarita Kumari Wife Of Late Satya Prakash Resident of Village- Nadwan, P.S.- Barh, District- Patna
 7. Ajit Kumar S/O Sri Kameshwar Paswan Resident of Village- Gauharnagar, P.S.- Sikandra, District- Jamui
 8. Md. Ashraf @ Md. Ashraf Quareshi S/O Md. Samsuddin Resident of Village- Chumia, P.S. And District- Banka
 9. Ajit Kumar Son of Sri Bhola Singh Resident of Village- Konchgaon, P.S. Warsaliganj, District- Nawada
 10. Pawan Awnish Kumar S/O Sri Surendra Prasad Singh Resident of Village- Aghara, P.S. And District- Jamui
 11. Kumari Kundan Jyoti W/O Sri Rajiv Ranjan Kumar Resident of Village- Mahisauri, P.S. and District- Jamui
 12. Yasrabi Khatoon D/O Sri Gaffur Anshari Resident of Village- Sonai, P.S. And District- Jamui

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. Of Bihar, Patna
2. Director, Primary Education, Bihar, Patna
3. District Magistrate, Jamui
4. District Education Officer, Jamui
5. District Programme Officer, Establishment, Jamui
6. Block Education Officer, Jamui
7. Mukhiya Gram Panchayat Raj, Aghara Baruatta, Jamui
8. Panchayat Secretary, Gram Panchayat Raj, Aghara Baruatta, Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Banwari Sharma, Adv.
Mr. Shiv Kumar, Adv.
For the Respondent/s : Mr. Mrigendra Kumar, A.C. to G.A.4
Mr. Ajay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date: 28-07-2016

Heard Mr. Banwari Sharma, learned counsel for the petitioners, Mr. Mrigendra Kumar, learned A.C. to G.A. 4 for the State and Mr. Ajay Kumar who appears for the Panchayat Secretary respondent No. 8.

With the consent of the parties, the writ petition is being disposed of at the stage of admission.

The 12 petitioners herein are aggrieved by the order bearing Memo No.21 dated 6.12.2012 passed by the Panchayat Secretary whereby their services as Panchayat Teacher have been terminated in reference to an order passed by the District Panchayat Teachers Appointment Appellate Authority, Jamui bearing Memo No.914 dated 23.12.2010 and an order to that effect passed by the District Magistrate, Jamui.

Mr. Sharma learned counsel for the petitioners has referred to the order passed by the appellate authority a copy of which has been annexed at Annexure-2, to submit that there is no order for termination of the services of the petitioner rather all that the appellate authority has ordered is, to direct the Appointment Committee, Gram Panchayat Raj, Aghara Baruatta to examine the qualification of all the applicants and prepare a merit list afresh and in case the appointees whose appointment was put to challenge were found within the merit

list then not to disturb their appointment, failing which necessary orders be passed.

Mr. Sharma has next referred to the proceedings of the Appointment Committee present at Annexure-3 to submit that no infirmity was found in the appointment of these teachers and yet the Panchayat Secretary has proceeded to terminate the services of these petitioners on a complete misinterpretation and misappreciation of the order of the appellate authority and even in absence of any such direction by the District Magistrate, Jamui. Mr. Sharma has further submitted that all the petitioners have been working on their respective posts but they are not being paid their salary. He prays for appropriate direction in this regard.

Mr. Sharma has also fairly informed this Court that the decision of the Appointment Committee was challenged by some disgruntled competitors in C.W.J.C. No. 3681 of 2011 and analogous cases but it is informed by Mr. Mrigendra Kumar that the said batch of writ petitions were subsequently dismissed as withdrawn.

Counsel for the State and the Panchayat Secretary do admit to the lapse and submit that there is no such order regarding termination of services of the petitioners received either from the appellate authority or the District Magistrate. Mr. Ajay Kumar has also referred to an affidavit filed by the respondent No.8 to submit that the

Panchayat Secretary has admitted that the order was issued overlooking the resolution of the Appointment Committee present at Annexure-3.

In the undisputed circumstances discussed above, the order of the Panchayat Secretary bearing Memo No.21 dated 6.12.2012 impugned at Annexure-13 cannot be upheld and is accordingly set aside. The petitioners stand restored to their respective post of Panchayat Teachers.

In so far as the prayer of the petitioners for payment of the salary is concerned, the Panchayat Secretary is directed to consider their prayer and if the assertion of Mr. Sharma made on behalf of the petitioners that they have been continuously working on their respective post is found to be correct, then necessary steps be taken for payment of the salary of the petitioner concerned for the period they have worked within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

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