

IN THE HIGH COURT OF JUDICATURE AT PATNA

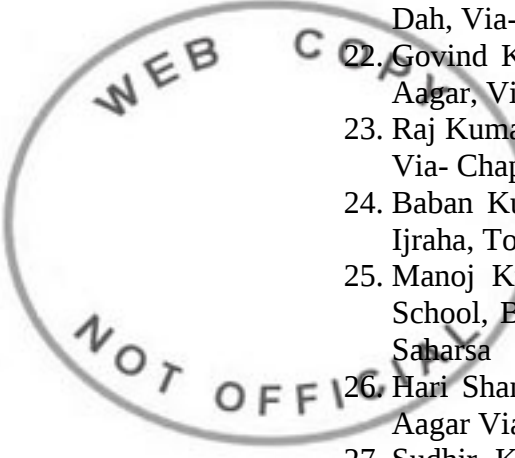
Civil Writ Jurisdiction Case No.7680 of 2013

1. Kumar Anand, son of late Brahamdeo Singh, R/O Village- Kathdumar, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, New Secretariat, Patna
2. District Magistrate, Saharsa
3. Deputy Education Officer, Saharsa
4. Block Development Officer, Simribakhtiyarpur, District- Saharsa
5. Block Area Education Officer, Simribakhtiyarpur
6. Gopal Bind, son of Shayamdeo Bind, Mukhiya Gram Panchayat Kathdumar, resident of village Agar, P.O.- Kathdumar, Via- Chapraon Kothi P.S.- Simribakhtiyarpur, District- Saharsa
7. Panchayat Secretary Kathdumar, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
8. Smt. Kumod Devi, wife of Gopal Bind [Mukhiya Gram Panchayat Kathdumar], resident of village- Agar, P.O.- Kathdumar, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa. Presently Panchayat Teacher Primary School Agar Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
9. Savti Kumari, wife of not known Panchayat Teacher, New Primary School Dah, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
10. Rekha Kumari, wife of not known, Teacher New Primary School Ejraha Tola, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
11. Kumari Sarita, wife of not known, Presently Panchayat Teacher, Primary School Agar, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
12. Meena Mehta, wife of not known, Panchayat Teacher New Primary School Mallah Toli Dah, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
13. Veena Kumari, wife of Pramod Kumar Singh, resident of village- Kathdumar, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
14. Kumari Abha Singh, wife of not known, Panchayat Teacher, New Primary School Bornaha Dera, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
15. Smt. Jai Prabha, wife of not known, Panchayat Teacher, New Primary School Lohra Dera, Tirashi Mushahri, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
16. Smt. Reena Kumari, wife of not known, Panchayat Teacher New Primary School Lohra Dera, Tirashi Mushahri, Via- Chapraon Kothi P.S.- Simribakhtiyarpur, District- Saharsa,
17. Smt. Kumari Anupam, wife of not known, Panchayat Teacher, New Primary School Lohra Dera, Tirashi Mushahri, Via- Chapraon Kothi P.S.- Simribakhtiyarpur, District- Saharsa
18. Smt. Sulochana Kumari, wife of not known, Panchayat Teacher, Primary School, Dah, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
19. Shambhu Kumar Choudhari, son of not known, Panchayat Teacher Primary, School Dah, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa

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20. Gokul Kumar Bind, son of not known, Panchayat Teacher, Primary School Agar Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
 21. Manoj Kumar Tuddu, son of not known, Panchayat Teacher, Primary School Dah, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
 22. Govind Kumar Bind, son of not known, Panchayat Teacher, Primary School Agar, Via- Chapraon Kothi P.S.- Simribakhtiyarpur District- Saharsa
 23. Raj Kumar Bind, son of not known, Panchayat Teacher, Primary School Agar, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
 24. Baban Kumar Singh, son of not known, Panchayat Teacher, Primary School Ijraha, Tola Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
 25. Manoj Kumar Singh, son of not known, Panchayat Teacher, New Primary School, Bornaha Dera Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
 26. Hari Shankar Kumar, son of not known, Panchayat Teacher, Primary School Agar Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
 27. Sudhir Kumar Choudhari, son of not known, Panchayat Teacher, Primary School Dah, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
 28. Pawan Kumar Gupta, son of not known, Panchayat Teacher, Primary School Dah, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa
 29. Debanand Kumar, son of not known, Panchayat Teacher, Primary School Dah, Via- Chapraon Kothi, P.S.- Simribakhtiyarpur, District- Saharsa

.... Respondent/s

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Appearance:

For the Petitioner : Mr. Diwakar Prasad Singh, Advocate
For the State : Mr. Sharad Kumar Sinha, GP 15
For the Respondent Nos. 8 to
15 & 17 to 29 : Mr. Ramchandra Sahani, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-04-2016

The Petitioner has challenged the order dated 09.11.2012 passed by the District Teachers Appointment Appellate Tribunal, Saharsa, in Appeal No.74 of 2011 whereby and whereunder it has rejected the appeal filed by the Petitioner.

Facts of the case are that Kathdumar Gram Panchayat had issued advertisement in 2006 for selection/appointment of Panchayat Teachers. Accordingly, the Petitioner and others applied for the same. The Petitioner belongs to the general category having



obtained 68% marks. From Annexure -1, which is the receipt dated 30.08.2006, granted by the Panchayat Secretary, it is apparently clear that the Petitioner had applied but the Petitioner and others were not selected. It is also relevant that a panel was prepared but the name of the Petitioner was not standing in the panel. The plea taken by the Panchayat Secretary was that the Petitioner did not apply for the said post.

Then, the Petitioner and others approached the Block Development Officer, Simri Bakhtiyarpur, Saharasa, who at the relevant time was competent authority, to examine the correctness or otherwise in respect of appointment of Panchayat Teachers. The Block Development Officer found irregularity was committed in making selection of Panchayat Teachers and, accordingly, vide order dated 13.03.2008, set aside the appointment of 22 teachers appointed by the Panchayat Unit. Thereafter, the Block Development Officer had reviewed its earlier order and vide order dated 31.05.2008 held that the appointment of 22 teachers were legal and proper and, accordingly, the earlier order was reviewed and the appeals filed by the Petitioner and other were rejected.

Against that order, the Petitioner approached this Court in CWJC No.11197 of 2007, and this Court after discussing the matter vide order dated 15.07.2011 directed the Petitioner and others

to approach the Appellate Authority, who will adjudicate the grievance of the Petitioner and others.

In terms of the order passed by this Court, the Petitioner had approached the Appellate Authority vide Appeal No.74 of 2011 and the Appellate Authority vide order dated 19.11.2012 has rejected the claim of the Petitioner holding that there is no material to show that the Petitioner had applied for the post of Panchayat Teacher.

Counsel for the Petitioner submits that the order of the Tribunal suffers from illegality as the whole selection was done in a very improper manner and appointed only those persons, who had lesser marks. The persons, who had better marks were either shown to have not filed the application or they have remained absent in the counseling.

In an identical matter and arising from same selection process, one Anjana Kumari had approached this Court in LPA No.1405 of 2012 with regard to appoint of Panchayat Teacher of the same Panchayat and this Court found that the subsequent order passed by the Block Development Officer as also the order passed by the Appellate Authority are completely illegal, not sustainable and quashed the order. The Court held that the Block Development Officer had no jurisdiction to review its own order and directed that the earlier order dated 13.03.2008 passed by the Block Development

Officer by which he had held that Panchayat Unit had illegally appointed 22 persons and set aside their appointment, was the correct order and the same was restored with a direction to act in terms of the said order.

In view of the order passed by this Court in LPA No.1405 of 2012, this Court has nothing to decide on merit.

Let there should be a fresh selection in which the Petitioner should also be treated to have applied for the Panchayat Teacher and he also be called for the counseling and whoever is the best candidate should be selected as Panchayat Teacher. The selection process will go for a fresh appointment irrespective of the earlier appointment made by the Panchayat unit.

With the aforesaid observation/direction, this application is disposed off.

(Shivaji Pandey, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13.05.2016
Transmission Date	