

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1753 of 2012

IN

Civil Writ Jurisdiction Case No. 740 of 2010

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Md. Manjoor Ansari, Son of Md. Rasool Mian, resident of Village- Mushra Tand,
P.O. Maheshwari, Police Station- Sono, District- Jamui. Appellant.

Versus

1. The State Of Bihar Through The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna
 2. The Director (Primary Education) Human Resources Development Department, Govt. Of Bihar, Patna
 3. The District Magistrate, Jamui
 4. The District Superintendent Of Education, Jamui
 5. The Block Development Officer, Sono, District- Jamui
 6. The Block Education Extension Officer, Sono, District- Jamui
 7. The District Teacher Employment Appellate Authority, Jamui through its Chairman
 8. The Member, District Teacher Employment Appellate Authority, Jamui
 9. The Mukhiya Gram Panchayat Raj, Rajaun, P.S. Sono, District- Jamui
 10. The Panchayat Secretary, Gram Panchayat Raj Rajaun, P.S. Sono, District- Jamui.
 11. Md. Niyazul Haque, son of Md. Usman Ansari, resident of village Bhelua, P.S. Sono, District Jamui. Respondents.
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Appearance :

For the Appellant : Mr. Abdul Mannan Khan, Adv.

Mr. Md. Harun Quareshi, Adv.

For the Respondents : Mr. Harendra Prasad Singh, GA-8.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 03-03-2016

This Intra-Court appeal has been preferred against the judgment and order dated 11.05.2012 passed in C.W.J.C. No.740 of 2010 by a learned Single Judge of this Court, by which the writ petition filed by respondent no.11 to this appeal was disposed of partly upholding the order of the District Teachers Employment Appellant Tribunal, Jamui (for

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the sake of brevity 'Tribunal') and partly overruling the said order dated 08.10.2009 passed in Case No.14 of 2009 of the Tribunal.

2. Heard learned counsel for the parties and, with their consent, this appeal has been heard for final disposal at this stage itself.

3. It is not in dispute that on 28.07.2006 advertisements were published in newspapers with regard to appointment of Panchayat Teachers in Gram Panchayat Raj Rajoun in the Sub-division of Sono in the district of Jamui. The writ petitioner, who is respondent no.11 in this appeal, and the appellant, who was respondent in the writ petition, apart from others, applied. The post was reserved for EBC (inadvertently referred to as MBC in the judgment of the Writ Court).

4. It appears that in the selection process one Md. Seraj Hussain was selected but he resigned on 09.04.2007 and the post became vacant. The Panchayat Samiti, thereafter, decided to fill up their vacancies allegedly from panel already prepared. Accordingly, a notice was displayed on the notice board of Panchayat fixing 24.04.2007 as a date for counselling from amongst the remaining persons in the panel. The writ petitioner, who is respondent no.11 in this appeal, was alleged to

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have been selected and issued appointment letter. He joined. The appellant then moved the Tribunal and during pendency of the same he also filed a writ petition in this Court being C.W.J.C. No.13765 of 2007 wherein he was relegated to the alternative remedy before the Tribunal by order dated 06.07.2009. The Tribunal, which was now dealing with the matter, examined the selection process and held that the selection process, in which the writ petition had got selected, was a sham process where all the eligible candidates in the panel had not been noticed. Accordingly, the Tribunal, by its order dated 08.10.2009, set aside the entire selection process but, while doing so, directed respondent no.11 to the writ petition, the appellant herein, to be appointed. It is being aggrieved by this order that the writ petitioner, respondent no.11 herein, filed the instant writ petition challenging the order of the Tribunal. The Writ Court, while upholding the order of the Tribunal, in regard to the finding that the selection process had been vitiated, further held that the direction of the Tribunal to appoint respondent no.11 to the writ petition, the appellant herein, could not be sustained, inasmuch as all parties had to be noticed and the counselling had to be done all over again. Being aggrieved by this order of this Court, the present appeal has been filed.

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5. Having heard the parties, we are of the view that the learned Single Judge has committed no error and no interference in this Intra-Court appeal is required. The Tribunal and the learned Single Judge, upon examination of the facts, clearly held that the selection process, by which respondent no.11 to the writ petition, the appellant herein, was selected stood vitiated. We find no reason to take a different view of the matter. Once, this is the finding of the Court then it has to follow that fresh process for selection has to be undertaken, after notice to all the parties and, the Tribunal was wrong in straightway ordering appointment of the appellant, who is respondent no.11 in the writ petition. This is the correct view as also taken by the learned Single Judge. Thus, the direction of the Tribunal to appoint respondent no.11 cannot be sustained and the learned Single Judge rightly set aside the same.

6. In view of the aforesaid, we find that this appeal merits no consideration and is fit to be dismissed and is dismissed as such.

(Hemant Gupta, J.)

(Navaniti Prasad Singh, J.)

Trivedi/NAFR

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