

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19124 of 2013

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Birendra Chaudhary Son Of Anant Chaudhary Resident Of Village- Katauna, P.S.-
Katrisarai, District- Nalanda

.... Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Human Resources Development
Department Govt. Of Bihar, Patna
2. The Director, Primary Education, Govt. Of Bihar, Patna
3. The District Magistrate, Nalanda at Biharsharif
4. The District Education Officer, Nalanda at Biharsharif
5. The Block Development Officer, Katrisarai, Nalanda
6. The Block Education Extension Officer, Katrisarai, Nalanda
7. The Member, District Teacher Employment Appellate Authority, Nalanda at
Biharsharif, Nalanda
8. The Mukhiya, Gram Panchayat Raj, Katrisarai, Block and P.S. Katrisarai,
District- Nalanda
9. Dharmendra Kumar Son of Ravichandra Ravidas Resident Of Village And P.O.
Katauna, P.S. Katrisarai, District- Nalanda
10. Panchayat Sachiv Gram Panchayat Raj, Katauna, P.S. Katrisarai, District-
Nalanda

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate
Mr. Nikhilesh Kumar, Advocate

For the State : Mr. Kameshwar Pd. Gupta, G.P.-10
Mr. Satya Vrat, AC to G.P.-10

For respondent No. 9 : Mr. Siya Ram Shahi, Advocate
: Mr. Vibhuti Ranjan Sonvadra, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-08-2016

Heard the learned counsel for the petitioner, learned
counsel for the private respondents and the learned counsel for the
State.

In the present case, the petitioner is challenging the order
of Tribunal dated 08.08.2013, regarding the fact that in the

counseling out of 23 persons of Scheduled Castes category, Dharmendra Kumar, respondent No. 9 has been shown to have appeared accordingly he was appointed.

In the present case, the primary question has been raised by the petitioner that on the day of the counseling, he was there but the counseling was done in different register and the person, who has secured the lesser mark than the petitioner, has wrongly been selected.

The matter relates to the first phase of the appointment of Panchayat Teacher under Gram Panchayat Raj Katauna within Block Katrisarai, District Nalanda, Bihar Sharif. The petitioner has given his bio data about his qualifications where he has stated that he is a graduate in second division from Magadh University whereas Dharmendra Kumar, respondent No. 9, is only Intermediate pass having obtained 470 marks in second division in Intermediate.

In pursuance of the advertisement, the petitioner and Dharmendra Kumar, respondent No. 9, applied for the post of Panchayat Teacher under Gram Panchayat Raj Katauna within Block Katrisarai.

As per the claim of the petitioner, he has appeared in counseling on 17.11.2006 but the Mukhiya has conducted his

counseling in a different register even though Dharmendra Kumar, respondent No. 9, has lesser marks, has been appointed for the post of Panchayat Teacher, which is completely illegal and not sustainable in law.

The petitioner not only made his representation but also filed a criminal case which was registered as Katrisarai (Giriyak) P.S. Case No. 164 of 2007 and the case has been quashed by this Court vide order dated 24.01.2011 in Criminal Miscellaneous No. 17705 of 2010 (**Annexure-C**).

When the petitioner was not appointed for the post of Panchayat Teacher, he filed an Appeal No. 242 of 2009 before the District Teacher Employment-Appellate Authority, Nalanda and the Appellate Authority without hearing Dharmendra Kumar, respondent No. 9 of this case allowed the appeal and directed to appoint the present petitioner.

Against the said order, the respondent No. 9 approaches this Court by filing C.W.J.C. No. 9403 of 2010. This Court vide order dated 05.11.2012, set aside the order of the Appellate Tribunal on the ground that the same was passed without giving any notice or hearing to the petitioner, which is against the principle of natural justice. The matter was remanded back to the Tribunal, the Tribunal heard the matter and arrived at a conclusion

that the petitioner did not appear in counseling on 17.11.2006 and the respondent No. 9 appeared in counseling and he was selected.

Though the respondents have taken a plea that out of 23 persons, one person appeared which appears to be strange strongly indicating irregularities have been committed in the counseling. This Court with a view to verify asked the State to produce the original records of the appointment of Panchayat Teacher of the first phase. Accordingly, the records in three registers have been produced before this Court. This Court has perused the three registers which deal with the appointment of the Panchayat Teacher under Gram Panchayat Raj Katauna within Block Katrisarai and does not find that any wrong method has been adopted in selection of Panchayat Teacher.

The learned counsel for the petitioner has tried hard to impress upon this Court that the counseling was not done in a proper manner, he has wrongly been deprived from the appointment of the Panchayat Teacher, which cannot be approved. The registers which have been produced does not disclose that any wrong has been done. It bears the signature of the Mukhiya and other members at different place. The documents show that with regard to the Scheduled Castes category candidate only Dharmendra Kumar, respondent No. 9, appeared and rest persons did not participate in

the counseling but with respect to the other categories in a large number of candidates appeared and also they participated in the counseling apart from that those who have appeared, they have put their respective signatures in the register. It does not appear that any irregularity has been committed in the counseling conducted for the appointment of the Panchayat Teacher. In such view of the matter, the contention of the petitioner that though, he has appeared in the counseling is not substantiated from the records which has been produced and so much so he could not succeed in criminal case.

In such view of the matter, this Court does not find any merit in the writ application. Accordingly, the same is dismissed.

The interim order passed against the present petitioner is vacated, the authority is directed to release the salary of the Dharmendra Kumar, Respondent No. 9.

(Shivaji Pandey, J)

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