

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11980 of 2013

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Niraj Kumari, W/O Anand Kumar Singh and D/O Madhusudan Singh, R/O Village
+ P.O. - Nonfarwa, P.S. - Patahi, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District Magistrate, East Champaran, Motihari.
6. The Education, Education Officer, East Champaran, Motihari.
7. The Mukhiya-cum-Chairman, Panchayat Employment Committee, Gram Panchayat Raj, Nonfarwa, P.S. Patahi, District - East Champaran.
8. The Panchayat Secretary, Gram Panchayat Raj, Nonfarwa, P.S. - Patahi, District - East Champaran.
9. Kumar Om Prakash, S/O Birendra Kumar Singh, R/O Village - Ratansayar, P.S. - Patahi, District - East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhakar Tekriwal, Advocate Mr. Manindra Krishna Singh, Advocate Mr. Sanjay Mandal, Advocate
For Respondent No.9	:	Mr. Vindhyachal Singh, Advocate Mr. Diwakar Prasad Singh, Advocate
For Respondent Nos.7 &8	:	Mr. Jharkhandi Upadhyay, Advocate
For the State	:	Mr. Mahtab Alam, AC to SC-20

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-10-2016

Heard Mr. Prabhakar Tekriwal, learned counsel
appearing for the petitioner Mr. Mehtab Alam, learned Assisting
Counsel to S.C.-20, Mr. Vindhyachal Singh, for respondent no.9
and Mr. Jharkhandi Upadhyay, learned counsel for respondent
nos.7 and 8.

The petitioner is aggrieved by the order dated
20.5.2013 passed by the District Teachers Employment Appellate



Authority, East Champaran, Motihari, whereby the Appellate Authority while considering the complaint of the private respondent in Case No.321 of 2008, has been pleased to set aside the appointment of the petitioner *inter alia* on grounds that the private respondent having a better candidature was ignored and that the writ petitioner had been appointed in surreptitious manner by overlooking the statutory requirements. It is under the orders of this Court that the records of the appointment proceedings has been produced and confirming the procedure followed by the appointment committee lacks transparency and persons with better qualification have been ignored.

It is argued by Mr. Vindhyachal Singh, learned counsel appearing for the respondent no.9 that the tentative merit list was never made public as mandated under Rule-9(viii) of the Bihar Panchayat Primary Teacher (Appointment & Service Condition) Rules, 2006 as amended from time to time and which argument is contested by Mr. Prabhakar Tekriwal, learned counsel appearing for the petitioner to submit that though the list was published but the name of the writ petitioner as well as private respondent was missing. He submits that on gathering information that the name of the petitioner was missing from the list that the petitioner filed her objection which was acted upon resulting in her

appointment which suffers no infirmity. Even while making such submission Mr. Tekriwal fairly concedes that while the writ petitioner has secured 60.11%, the private respondent is better placed with 78.60 %.

As I have said it is pursuant to the orders of the Court that the records have been produced and what transpires is that even though the tentative list of 34 persons who participated in the counselling held on 28.2.2009, belonging to the general category have better marks than the writ petitioner yet for the reasons best known, the appointment has gone in favour of the writ petitioner.

The records further transpire that even when the name of the petitioner is missing from the merit list so prepared on 25.4.2009 yet she has been issued an appointment order on 18.4.2010 and the explanation is missing. It is taking note of such serious infirmity in the selection process that the appointment of the petitioner has been interfered by the Appellate Authority on grounds of lack of transparency and the matter has been remitted to the appointment committee of the Gram Panchayat, Nonfarwa in the district of East Champaran with a direction to appoint the private respondent on the post. The order of the Appellate Authority in the circumstances discussed as confirmed from the records requires no interference.

This Court thus without interfering that the direction was issued by the Appellate Authority, would only require the appointment committee to examine from the records and satisfy itself whether there are better candidate than the private respondent no.9 from amongst the merit panel prepared before issuing appointment in his favour. Such exercise should be completed expeditiously and preferably within 4 weeks of receipt/production of a copy of this order.

The writ petition is disposed of with the direction aforementioned.

The records so produced by the learned State Counsel are returned to his custody.

(Jyoti Saran, J)

deepika/ SKPathak

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	02-11-2016
Transmission Date	NA