

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4389 of 2013

=====

Kumari Aarti W/O Arvind Kumar R/O Village- Rajpur, P.O.- Hathua
Rajpur, District- Buxar

.... Petitioner

Versus

1. The State Of Bihar Through The Chief Secretary, Bihar, Patna
2. The Commissioner, Patna Division, Patna
3. The Collector, Buxar
4. The Member District Teacher Employment-Cum-The Member Appellate
Authority, Dist. - Buxar
5. The Block Education Extension Officer, Rajpur, District- Buxar

.... Respondent/s

=====

Appearance:

For the Petitioner : Mr. Surendra Kumar Mishra

For the Respondents : Mr. Subodh Kumar, A.C. to G.P.14

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 14-01-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the limited grievance has been raised that
the order dated 30.06.2011 passed by the Appellate Tribunal in
connection with Appeal No.2 of 2011 be complied with as in the
order the Appellate Tribunal has given a direction to verify the
testimonial of the present petitioner and take necessary steps for
her appointment.

In the Counter Affidavit a peculiar stand has been
taken by the State that though it is not challenging the order before



any forum and the order of the Tribunal has reached to finality, which making an averment in the Counter Affidavit thereby challenged the orders collaterally dealing with the merit of the case itself, which is not permissible in law. If the authorities are feeling aggrieved by the order, they are free to challenge the order before a forum but by filing the Counter Affidavit they cannot challenge the same when it has come for the implementation of the order. They cannot be a Super Appellate Forum to come and say that they will not implement the order on account of its various infirmities that cannot be approved in our judicial system. The executive cannot say that they are above the Tribunal when it has been created under the law framed by the State of Bihar.

Reference can be made of ***Amrik Singh Lyallpuri vs. Union of India and Others***, reported in ***(2011) 6 SCC, page 535***.

In such view of the matter, the respondents are directed to implement the order passed by the Appellate Tribunal. The petitioner is directed to approach the Panchayat Niyojan Committee, in failure to act upon the order passed by the Appellate forum, the petitioner will be at liberty to approach the Collector and who will be obliged to see that the order passed by the Appellate Tribunal be complied with.

With the aforesaid observations and directions, this writ petition stands allowed.

(Shivaji Pandey, J)

pawan/-

U			
---	--	--	--