

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No. 930 of 2014**  
**Arising out of**  
**Civil Writ Jurisdiction Case No. 18215 of 2013**

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1. Manoj Kumar Son of Surendra Kunwar.

2. Saroj Kumar Son of Surendra Kunwar.

Both resident of village Dadhor, Police Station Khajauli, District- Madhubani.

.... .... Petitioner/s / Appellant/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.

3. The Director, Primary Education, Govt. of Bihar, Patna.

4. The District Collector, Madhubani.

5. The District Education Officer, Madhubani.

6. The District Programme Officer (Establishment), Madhubani.

7. The Block Education Officer, Basopatti Block, Madhubani.

8. The Mukhiya, Gram Panchayat Raj, Damu, Police Station + Block Basopatti, Madhubani.

9. The Panchayat Secretary, Gram Panchayat Raj, Damu, Police Station + Block Basopatti, Madhubani.

10. The Principal, Panchayat Teacher, Newly Established Govt. Primary School, Chandan Kasera, Police Station Basopatti, District- Madhubani.

.... ... Respondent/s / Respondent/s

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**Appearance :**

For the Appellant/s : Mr. M. P. Sinha,

Mr. Ratan Kumar Sinha &

Mr. Madhukar Pandey, Advocates

For the State : Mr. Kumar Manglam, A.C. to S.C. 24

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**

**and**

**HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)**

**Date: 25-10-2016**



Heard learned counsel for the parties.

2. The challenge in the present intra Court appeal is to the order dated 22.10.2013 by which C.W.J.C. No. 18215 of 2013 filed by the appellants has been dismissed by the learned Single Bench.

3. Pursuant to advertisement for appointment as Panchayat Teacher, the appellants applied in November, 2008. A provisional merit list of 31 eligible persons who had applied was prepared and objection was called between 03.12.2008 to 10.12.2008. Thereafter, final merit list was also prepared and counselling was fixed for 27.01.2009. On the said date counselling was not held and was re-scheduled for 28.01.2009. On 10.05.2009 list of selected candidates was prepared which includes the names of the appellants. The date fixed for distribution of appointment letters by the Department was 13.08.2010 and 14.08.2010. Under letter no. 4276 dated 20.12.2010, the District Superintendent of Education, Madhubani fixed 29.12.2010 and 30.12.2010 for distribution of appointment letters. On 15.02.2011, the appellants claim to have received the appointment letter and also given their joining in the respective schools. However, they approached the District Teachers Employment Appellate Authority, Madhubani (hereinafter referred to as the 'Authority') alleging that they were



not allowed to make attendance in case no. 910/08/12 and 911/2008/12. Dismissal of the same by order dated 24.04.2013 was assailed by the appellants in C.W.J.C. No. 18215 of 2013 and rejection of the writ petition by the learned Single Bench on 22.10.2013 has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellants submitted that the appellants having been duly selected and issued appointment letter, there was no illegality in the entire process and though they may have been issued the appointment letter after some delay, such fact would not vitiate the appointment itself as it was the Principal who has not allowed the appellants to mark the attendance due to which the Panchayat Secretary has opened a new register and the appellants were making their attendance on the same. Learned counsel submitted that it was the then Panchayat Secretary who had played mischief but the due process having been followed for such appointment, there being no fault or lapse on the part of the appellants, their appointment ought not to have been disturbed.

5. Learned counsel relied upon a decision of the learned Single Bench of this Court in the case of **Kavita Kumari vs. State of Bihar** reported as **2011 (2) PLJR 624** to contend that for the fault of the authorities, the appellants cannot be denied relief and in the present case it was only because of the inaction of the



then Panchayat Secretary of not issuing appointment letters, the appellants have been made to suffer.

6. Learned counsel for the State submitted that the Authority in its order dated 24.04.2013 has noted that despite the Government fixing 29.12.2010 and 30.12.2010 for issuance of appointment letter, the same was not done and after that there was stay of making any appointment by the Government. It was submitted that in view of the aforesaid, the appellants cannot be granted any relief.

7. Having considered the rival contentions, we do not find any merit in the present appeal. Though the appellants claim that they have taken part in the counselling and their name was there in the select list and even appointment letter had been prepared in their favour pursuant to which they had also joined, however, it is also an admitted position that till the final cut-off date fixed by the State Government to complete the appointment process, the same has not been done. Further, the Authority in its order has also noted that the appellants had been given appointment letter much after the cut-off date of 29/30.12.2010 i.e., 15.02.2011. The Authority has also noted that upon enquiry by the Block Education Officer, Basopatti it has been found that the appellants never gave their joining before the Headmaster. Even the



Headmaster has reported that no document relating to selection/appointment of the appellants had been sent to him which clearly indicates that everything was on paper and antedated. Another glaring discrepancy noted by the Authority is that all papers relating to such appointment has been submitted by a person who was not working on the said day as Panchayat Secretary. Thus, the reasons given for doubting the veracity of selection and issuance of appointment letter in favour of the appellants are cogent and bona fide. Once the Government has fixed the date of completion of appointment the same envisages the selection followed for issuance of appointment letter. Admittedly, by the cut-off date i.e., 29/30.12.2010 the appellants not having been given appointment letter, without any relaxation by the State Government, no further process of appointment, including issuance of appointment letter, could be carried out.

8. In view thereof, the entire process showing various lapses cannot be said to be in accordance with law and the order of the Authority cannot be faulted. As far as the judgment in the case of **Kavita Kumari** (supra) relied upon by learned counsel for the appellants is concerned, the same is not relevant in the facts and circumstances of the present case for the reason that in the present case the very selection and issuance of appointment letter in



favour of the appellants has been doubted on cogent grounds which was not the fact in the decision relied upon.

9. For the reasons aforesaid, the Letters Patent Appeal, stands dismissed.

**(Hemant Gupta, J.)**

**(Ahsanuddin Amanullah, J.)**

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