

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 1037 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 6314 of 2012

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Baby Kumari W/o Jawahar Lal Sahini, Resident of village - Goriyari, P.S. Bakhri Bazar, P.O. Bakhiri Bazar, District – Begusarai.

....Petitioner/s / Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. District Program Officer, District – Begusarai.
4. Panchayat Secretary, Gram Panchayat Raj Bakhri East, Block Bakhri, District Begusarai.
5. Mukhiya, Gram Panchayat Raj Bakhri East, Block Bakhri, District Begusarai.
6. Supriya Kumari W/o Balram Sahni, Resident of village-Bakhri, Gram Panchayat Raj Bakhri East, Block Bakhri, District – Begusarai.
7. The District Teachers Employment Appellate Tribunal, Begusarai.

....Respondent/s / Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Siddhartha Prasad, Advocate
For the State	:	Mr. Anant Prasad Singh, S.C. 15
		Mr. Sanjay Kumar, A.C. to S.C. 15
For the Private Respondent/s	:	Mr. Rakesh Kumar Shrivastava &
		Mr. Chandan Kashyap, Advocates

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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: 27-10-2016

Heard learned counsel for the parties.

2. Challenge in the present intra-Court appeal is to the order dated 16.05.2014 by which C.W.J.C. No. 6314 of 2012 filed by the appellant has been dismissed by the learned Single Bench.

3. Pursuant to advertisement for appointment of Panchayat Teacher in Gram Panchayat Raj, Bakhri East, the appellant,



along with others, including respondent no. 6, applied under the EBC category. 1057 applications were received and a merit list was published on 19.02.2009. In the counselling held on 28.02.2009, 170 untrained applicants participated, including the appellant and the respondent no. 6. Final merit list was prepared on 05.03.2009 in which the name of the appellant was at serial No. 150 whereas that of respondent no. 6 was at serial No. 64. The State Government directed that consent be taken from the selected candidates on 13.08.2010 and 14.08.2010, and based upon the merit and roster points, appointment letter be issued. The appellant was appointed on the post of Panchayat Teacher under the EBC (Female) category and appointment letter dated 14.08.2010 was issued. The respondent no. 6, being aggrieved by the same, filed complaint before the District Teachers Employment Appellate Authority, Begusarai (hereinafter referred to as the 'Authority') on 09.09.2010 upon which Case No. 90 of 2010 was instituted. The Authority by order dated 12.03.2012 held the appointment of the appellant to be invalid and directed for taking steps for appointment of the respondent no. 6 on the resultant vacancy. The said order was assailed by the appellant in C.W.J.C. No. 6314 of 2012 and the order dated 16.05.2014 of the learned Single Bench dismissing the writ petition is the subject matter of challenge in the present Letters Patent Appeal.

4. Learned counsel for the appellant submitted that the



order of the Authority dated 12.03.2012 is based only on conjectures and surmises. He submitted that there is no evidence with regard to the respondent no. 6 having gone to the Panchayat Bhawan for giving consent for appointment on the date fixed by the Department. Learned counsel submitted that only on the basis of affidavit affirmed by the respondent no. 6 and the local Ward Counsellor, the Authority has set aside the appointment of the appellant which is not proper. It was further submitted that the entire recruitment process was carried in accordance with law in a transparent manner and does not suffer from any infirmity. Learned counsel submitted that the compliant was also not maintainable before the Authority as the same was made on 20.10.2010, which is after expiry of the limitation period of 30 days, which in the present case would come to 13.09.2010, since the appointment letter was issued on 14.08.2010. It was contended that the respondent no. 6 had only written a letter on 09.09.2010 to the Authority without any supporting document and, thus, it cannot be treated as a complaint before the Authority as the formal complaint, along with supporting documents, was filed before the Authority only on 20.10.2010.

5. Learned counsel for the respondents, on the other hand, contended that there is no requirement under the relevant Rules to file a complaint in a particular form. It was submitted that once a complaint of the respondent no. 6 was brought to the notice of the



Authority regarding denial of appointment to her on 09.09.2010, the said has to be treated as the date on which the Authority was moved. Learned counsel submitted that the reasoning of the Authority for interfering in the matter is logical and cogent and cannot be faulted.

6. Having considered the rival contentions, we do not find any merit in the present appeal. The basic reasoning in the order of the Authority is that the respondent no. 6 had much higher merit points compared to that of the appellant and that her residence being very near to the place where the counselling was held, coupled with the fact that in the merit list prepared after initial counselling on 28.02.2009, the respondent no. 6 was at Serial No. 1 in her category and, thus, there cannot be any reason to disbelieve the contention of the respondent no. 6 that she was present on 13th and 14th August, 2010 and had submitted her consent letter, which is sound. Further, the respondent no. 6 having made a written complaint before the Authority on 09.09.2010 has been confirmed by the learned Single Bench on perusal of the original records. Further, neither the plea relating to limitation nor the respondent no. 6 not being present for counselling was taken by the appellant before the Authority. It was only in the stand of the Panchayat Secretary that such plea was taken. Further, admitted position being that the appellant had 51.55% compared to that of respondent no. 6 who had 62.88% marks, leaves no doubt that the selection/appointment of the appellant was not



proper. Thus, on the basis of the admitted position of respondent no. 6 having much higher merit and her residence being situated only about 20 yards from the place where the exercise was being carried out leads to the obvious and logical conclusion that the respondent no. 6 had participated in the exercise as there is no scope for drawing any other or adverse inference.

7. Thus, taking an overall view of the matter, the reasoning given, both by the Authority as well as the learned Single Bench, do not suffer from any error which may warrant interference in the present Letters Patent Appeal which, accordingly, stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar

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