

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22316 of 2014

Munni Kumari, daughter of Shri Nagendra Singh, Resident of village & P.O.- Nandamura, Police Station-Siswan, District-Siwan, at Present posted and working as Prakhand Teacher in Govt. Upgraded Middle School Nandamura, Anchal-Siswan, District-Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The Regional Deputy Director of Education, Saran Division, Chapra.
4. The District Magistrate, Siwan.
5. The District Education Officer, Siwan.
6. The District Programme Officer(Establishment), Siwan.
7. The Prakhand Pramukh, Sisawan Prakhand, District-Siwan.
8. The Block Development Officer-cum- Executive Officer, Sisawan, District-Siwan.
9. The Block Education Officer, Sisawan, District-Siwan.
10. The Headmaster, Govt. upgraded Middle School Nandamura, Anchal-Siswan, District-Siwan.
11. The Member, District Teacher's Employment Appellate Authority, Siwan.

.... Respondent/s

Appearance :

For the Petitioner : Mr. Rajiv Kumar Verma, Sr. Advocate
Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. R.K.Priyadarshi, SC-32

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 05-01-2016

Heard learned counsel for the Petitioner.

The Petitioner seeks quashing of the Memo No. 02, dated 02.01.2013, issued under the signature of the Block Development Officer, Siswan, by which he has cancelled the entire selection of 2nd Phase Teacher Selection, 2008 of Siswan Block, District Siwan. The Block Development Officer had set aside the selection on the

premises that the selection was made without following the procedure.

Being aggrieved by the order of the Block Development Officer dated 02.01.2013, a large number of teachers, who were selected in the 2nd Phase under Siswan Block, moved this Court in C.W.J.C. No. 1675 of 2013 and analogous writ petitions. After hearing the Parties, this court quashed the order of the Block Development Officer observing that he cannot sit in appeal over the orders of the Appellate Authority.

However, as some irregularities was apprehended in selection by the Block Development Officer, this Court in order to rule out any unfair play in selection, remitted the matter to the Appellate Tribunal for its consideration in accordance with law. The petitioners were directed to put their case before the Tribunal within six weeks. Liberty was accorded to the Block Development Officer to place his case too before the Tribunal. The concluding portion of the order of this Court is reproduced for easy reference:-

“The case of the respondent State is that subsequent enquiry revealed glaring illegalities in the selection process. The case of the petitioners is that the issue in question was examined by D.P.O. (establishment) and the selection of 106 Block teachers of Siswan Prakhanda were found to be genuine. In any case they contended that the Block Selection Committee cannot sit over the orders of the Appellate Authority, which is a quasi judicial body under a statute.



I find force in the submission of learned counsel for the petitioners. The Block Selection Committee cannot undo or unturn the decisions of Appellate Tribunal even if the latter had overlooked some discrepancies or has not taken into consideration some relevant materials. As such the impugned order dated 2.1.2013 passed by the Block Development Officer-cum-Executive Officer, Siswan is set aside. However, as some irregularities in selection process have been alleged by the respondents, I remit the matter to the Appellate Tribunal for its consideration in accordance with law. The petitioners must put in their case before the Tribunal within six weeks from today. The respondents including Block Selection Committee too would be entitled to place their case before the Tribunal. The impugned order of the Block Development Officer, Siswan cancelling the appointments of Prakhand Teachers under Siswan Block whose appointments were found genuine by the Appellate Tribunal is set aside. It is expected that the Appellate Authority would decide the matter within four months from the date of filing of the representation.

With the aforesaid observations and directions, these writ applications stands disposed of.”

In the light of the order of this Court dated 07.03.2013, many of the selected teachers made representations before the Appellate Tribunal. After hearing the parties, the Appellate Tribunal on consideration of the matter, observed that selection process does not suffice from infirmity and directed reinstatement of the selected candidates, in effect, those who had moved the Tribunal.

The petitioner, now has filed writ in the year 2014 praying similar relief as the facts and issues involved are identical.

Counsel for the State submits that the Petitioner's case could be different than the case of other selected candidates of 2nd Phase, who had moved this Court in C.W.J.C. No. 1675 of 2013. It appears that the Block Development Officer in the impugned Order dated, 02.01.2013 had set aside the entire selection of 2nd Phase Teacher Selection, 2008 of Siswan Block. This Court had quashed the order and remitted the matter to the Tribunal.

I do not find any reason not to accord similar treatment to the petitioner though she had moved this Court belatedly in the year 2014.

The writ application is accordingly disposed of in terms of direction contained in the order dated 07.03.2013, passed in C.W.J.C. No. 1675 of 2013 for consideration of petitioners case by Tribunal, if representation is so filed.

(Samarendra Pratap Singh, J)

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