

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.569 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 21482 of 2012**

Rupa Kumari, Wife of Jitendra Kumar, Resident of Ward No. 2, P.S. Nirmali
District- Supaul

.... Petitioner - Appellant

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Deptt.,
Govt. of Bihar, Patna
2. The District Magistrate, Supaul
3. The Block Development Officer, Nirmali, Supaul
4. The Block Education Officer, Nirmali, Supaul
5. The Teachers Appellate Tribunal, Supaul
6. The Panchayat Secretary, Gram Panchayat Bela Singar Moti, Block Nirmali,
District- Supaul
7. The Mukhiya Gram Panchayat Bela Singar Moti, Block Nirmali, District-
Supaul
8. Punam Kumari D/O Upendra Mandal, Resident of Village Sakhua Block and
P.S. Pipra, District- Supaul.
9. Mamta Kumari, Daughter not known to Petitioner, Resident of Rampurnavbad,
P.O. Nebua Supaul, District- Supaul

.... Respondent/s

Appearance:

For the Appellant/s	:	Mr.
For the State	:	Md. Irshad, AC to SC-1.
For the Respondent No.8	:	Mr. Shanti Kumar, Advocate. Mr. Sanjay Kumar Tiwary, Advocate. Mr. Baban Kumar, Advocate. Mr. Anuj Kumar, Advocate.
For the Respondent No. 9	:	Mr. Amrit Abhijat, Advocate. Mr. Ramnivas Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-09-2016

The order dated 10.12.2013 passed by the learned

Single Bench is the subject for challenge in the present Letters Patent

Appeal. In the writ application, the challenge is to an order dated 09.10.2012 passed by the District Teacher Employment Appellate Authority, Supaul (for short here-in-after called “Appellate Authority”).

2. The appellant has obtained 60.66% marks as against 63.44% marks obtained by Punam Kumari, respondent no.8. It is the Punam Kumari who challenged the appointment of the appellant by way of the appeal before the Appellate Authority. The Appellate Authority in its order dated 09.10.2012 found that there was counselling fixed on 28.02.2009 but the appointments could not be made on the basis of the said counselling. There was another counseling proposed to be held on 14.08.2010. But, without holding any counselling, the appointments have been made. The appellant and Mamta Kumari who has obtained 60.66% and 62.44% marks respectively were appointed. The learned Appellate Authority has found as a matter of fact that the Punam Kumari was present on both the dates i.e. on 28.02.2009 and also on 14.08.2010 and that she has obtained more marks than the other candidates. Therefore, she is not entitled to be appointed. Mamta Kumari who is the next in the merit list, was appointed against the other vacancy on the basis of her marks which is more than the present appellant.

3. The learned Single Bench affirmed the findings

recorded in the order passed by the Appellate Authority. A perusal of the order passed by the Appellate Authority shows that for the two posts of Panchayat Teacher, there was three applicant i.e. present appellant, Mamta Kumari and Punam Kumari. The appellant has obtained least marks, but she was appointed as against Punam Kumari who has obtained the highest marks.

4. The Appellate Authority recorded a finding that Punam Kumari was present on 28.02.2009 and 14.08.2010 and that she could not be ignored from the process of appointment.

5. We do not find any error in the findings recorded by the learned Tribunal as affirmed by the learned Single Bench. Accordingly, the present Letters Patent Appeal is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Mishra/-

AFR/NAFR	N.A.F.R
CAV DATE	N.A.
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