

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.170 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 13964 of 2012**

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Manoj Kumar Jha, S/O Surendra Jha, Resident of Village and P.O.- Motipur, P.S.-
Karjain, District Supaul

.... Appellant/s

Versus

1. The State of Bihar
2. The Member, District Teacher Employment Appellate Authority, Supaul
3. The District Magistrate, Supaul
4. The Block Development Officer, Pratapganj, District- Supaul
5. The Mukhiya, Gram Panchayat Shripur, P.S.- Karjain, District- Supaul
6. The Panchayat Sachiv, Gram Panchayat Shripur, P.S. Karjain, District- Supaul
7. Suman Kumar Singh S/O Pramod Kumar Singh, At present Panchayat Teacher
Nav Srijit Vidyalaya Paswan Tola Shripur, P.S. Karjain, District- Supaul
8. Roshan Kumar Karan, S/O Shankar Prasad Karan, At Present Panchayat Teacher
Primary School Shripur Brahman Tola P.S. Karjain, District- Supaul

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nagendra Upadhyay, Advocate.
For the State : Mr. Dhurjati Kumar Prasad, GP-7.
For the Resp. No. 6 : Mr. Abinash Kumar, Advocate.
For the Resp. Nos. 7-8: Mr. Suman Kumar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 28-04-2016

Heard learned counsel for the parties.

2. The order dated 04.09.2012 passed by the learned single Bench in CWJC No. 13964 of 2012 is the subject matter of challenge in the present Letters Patent Appeal. The learned single Bench has dismissed the writ petition filed by the appellant challenging the order passed by the District Teachers Appointment Appellate Tribunal, Supaul dated 13.12.2011.

3. The grievance of the appellant is that he is one of the applicants for appointment to the post of Panchayat Teacher. He appeared in the counselling on 28.02.2009 and had signed the counselling register. The second counselling took place on 29.12.2010. He was present on the said date, but the other candidates have been appointed though his name was at Serial No. 5.

4. The grievance of the appellant was examined by the Tribunal. It found that the appellant was not present on 29.12.2010 and; therefore, the appellant does not have any claim of appointment in respect of the post advertised.

5. The sole controversy is as to whether the appellant was present at the time of counselling on 29.12.2010 or not. The appellant has not alleged any *mala fide* against any of the office bearers of the Counselling Board. There is no reason as to why the appellant would be excluded from the appointment when the other persons on that day could be offered appointment. According to the appellant, there were seven vacancies. If there were seven vacancies, the appellant could be one of the candidates to be appointed. There was no reason not to appoint the appellant, had he been present. Subsequently, the appellant has not made out a case that he was present, but not appointed.

6. The learned single Bench has still given opportunity

to prove the question of facts as to whether he was present on 29.12.2010 or not.

7. We do not find any error in the order passed by the learned single Bench, which may warrant interference in the present Letters Patent Appeal. It is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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