

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1932 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 15138 of 2012**

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Rinki Kumari, wife of Dinanath Choudhary, resident of Daud Chhapra, P.O. Daud Chapra, P.S. Minapur, District- Muzaffarpur

.... Appellant

Versus

1. The State of Bihar through the Secretary, Education Department, Patna
2. The District Education Officer, Establishment, Muzaffarpur
3. The District Teacher's Employment Appellate Authority, Muzaffarpur
4. The Panchayat Secretary, Gram Panchayat Kolli, Minapur, P.O. Jangraha Via Rampur Hari, District- Muzaffarpur
5. The Mukhiya, Gram Panchayat Koili, Minapur, P.O. Jangraha Via Rampur Hari, District- Muzaffarpur
6. Anita Choudhary, wife of Ashok Kumar Choudhary, daughter of Jugal Choudhary, resident of village- Khanjadpur, P.S.- Minapur, District- Muzaffarpur

.... Respondents

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Appearance :

For the Appellant : Mr. Sandeep Kumar, Advocate
For the State : Mr. Saroj Kumar Sharma, AC to AAG 5
For Respondent No.6: Mr. Suraj Narayan Yadav, 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: 01-04-2016

The challenge in the present Letters Patent Appeal is to an order dated 17.01.2014, whereby the writ application filed by respondent no. 6 Anita Choudhary (in short, the applicant) was allowed and appointment of the appellant Rinki Kumari as Panchayat Teacher was set aside.

The writ applicant Anita Choudhary got 57.2% marks whereas 53.55% marks was obtained by the appellant. The name of

Anita Choudhary was at sl. no. 3 in the merit list, whereas that of Rinki Kumari, the present appellant, was in the waiting list.

An advertisement was published in Dainik Jagran, dated 21st July, 2010, for the purposes of filling up the post of three vacancies of Panchayat Teacher in Gram Panchayat Koili, the counselling was proposed to be held on 13th August, 2010 and 14th August, 2010. The grievance of the applicant is that she was not informed about that counselling for the aforesaid post though she had been visiting the Panchayat Secretary around that time. A representation was made raising such grievance to the District Teachers Appellate Tribunal on 27th August, 2010. She submitted that appointment letters were proposed to be issued between 9th August and 14th August, 2010, but even after making enquiry from the Panchayat Secretary at that time she was informed that no process of counselling is being was undertaken. Such representation of the writ applicant has an endorsement of one of Sarita Devi, member of the Panchayat, to the effect that no counselling was conducted between 9th and 14th August, 2010.

In reply before the Tribunal, Panchyat Mukhiya of Gram Panchayat Koili, Minapur, endorsed on 03.05.2012, to the effect that Anita Choudhary, daughter of Jaglal Choudhary, was not present in the counselling held on 14th August, 2010. Therefore, there was no

necessity for appointment letter to her.

The learned Tribunal in its order dated 9th July, 2012 found that Anita Choudhary remained absent in the counselling which is apparent from the record and, therefore, rejection of her candidature is valid. It is this order which was challenged before the learned Single Judge in CWJC No. 15138 of 2012.

The learned Single Judge found the proceedings of the Panchayat suspicious on 14th August, 2010 and consequently found that the absence mark of Anita Choudhary is unwarranted and allowed the writ application. The learned Single Judge found that as per the proceeding dated 14.08.2010, the Panchayat Secretary, Supervisor Raj Kumar and Ward Member Baidyanath Ram were present and put their signature. But the said Baidyanath Ram and Raj Kumar were not members of the Selection Committee.

The fact remains that Anita Choudhary was higher in merit and has made a grievance on 27th August, 2010 before the Tribunal that she has been approaching the Panchayat Secretary for her appointment and she made to run on one pretext or the other. Such complaint of Anita Choudhary finds support from a member of the Panchayat. There is no reason for a candidate higher in marks not to appear for counselling as per the schedule published in the newspaper. It appears that proceedings have been stage-managed for the appellant

showing absence of Anita Choudhary so as to facilitate appointment of the appellant.

We do not find any error in the findings recorded by the learned Single Judge in the impugned order dated 17.01.2014 passed in CWJC No. 15138 of 2012 which may warrant interference in the intra-court appeal.

The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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