

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.241 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 13019 of 2011

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Kumari Neelam Wife of Sri Ram Dayal Paswan Resident Of Village : Kansi, P.O.
Kansi, Police Station : Simari, District : Darbhanga

..... Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government Of Bihar, Patna
3. The Secretary, Primary Education, Govt. Of Bihar, Patna
4. The Director, Primary Education, Govt. Of Bihar, Patna
5. The Commissioner, Darbhanga Division, Darbhanga
6. The District Magistrate, Darbhanga
7. The District Superintendent Of Education, Darbhanga
8. The Block Development Officer, Singhwara, Darbhanga
9. The Block Education Officer, Singhwara, Darbhanga
10. Aarti Kumari Wife Of Sri Anoj Paswan Resident Of Village and P.O.
Bahadurpur, Block : Bahadurpur, District : Darbhanga

..... Respondent/s

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Appearance :

For the Appellant : Mr. Prafull Chandra Jha, Advocate

For the State : Mr. S. K. Singh, AC to GP 1

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 13-07-2016

Heard learned counsel for the parties.

The challenge in the present appeal under Clause X of the Letters Patent of Patna High Court is to order dated 12.03.2012 passed by the learned Single Bench by which C.W.J.C. No. 13019 of 2011 filed by the appellant has been dismissed.

The appellant was appointed as Panchayat Teacher on 29.12.2010 in Primary School, Baswari Tola, Singhwara block in the district of Darbhanga. She was thereafter sent for training from 14.06.2011 to 12.07.2011. In the meanwhile, the respondent no. 10 was also an applicant for the same post but not appointed moved before the District Teachers Employment Appellate Tribunal, Darbhanga (hereinafter referred to as the 'Tribunal') by filing Objection Case No. 28 of 2011. The same was allowed by order dated 21.06.2011 cancelling the appointment of the appellant and directing for appointment of respondent no. 10. Challenge to the same by the appellant in C.W.J.C. No. 13019 of 2011 having failed before the learned Single Bench has led to filing of the present Letters Patent Appeal.

Learned counsel for the appellant submitted that the entire procedure for her appointment was after following the procedure prescribed in law. It was submitted that even on facts the date on which the appellant was given appointment letter was the date



fixed by the State Government itself for such counselling and the respondent no. 10 not having appeared for such counselling, the concerned respondents being bound in law had issued the appointment letter to her. Learned counsel submitted that the other members of the Selection Committee have also signed on the proceeding and, thus, the contention of the respondent no. 10 before the Tribunal of there being no counselling held on 29.12.2010 and 30.12.2010 cannot be accepted. It was further submitted that the respondent no. 10 having failed to obtain appointment at some other place had tried to get appointment in the Panchayat concerned, much after the dates fixed i.e., 29.12.2010 and 30.12.2010 and, thus, the appointment of the appellant, who was the only person present at the time of counselling, cannot be said to be illegal.

Learned counsel for the respondents submitted that the Tribunal has considered the matter in detail and also taken note of the fact that the Panchayat Secretary at the relevant time, who was In-charge of both North and South Singhwara Blocks, had committed large scale of irregularities in Singhwara Panchayat and during course of enquiry he was also placed under suspension by the District Magistrate, Darbhanga. It was further submitted that the Block Education Officer, Singhwara had also submitted an enquiry report stating that the appellant as well as the respondent no. 10 had



appeared in the counselling along with five other persons on 28.02.2009 and the respondent no. 10 was having 68.3 % marks whereas the appellant had less i.e., 56%. He submitted that the report also indicated that on 29.12.2010 only the appellant was shown present in the counselling which raises doubts. Learned counsel submitted that the respondent no. 10 had appeared for counselling on 13.08.2010 and 14.08.2010, which were the dates initially fixed for counselling and being at No. 1 in the list of selected candidates, had even submitted certificates for verification, but the then Panchayat Secretary had deliberately not issued the appointment letter to the respondent no. 10 on 13.08.2010 and 14.08.2010 and later, by showing her to be absent on 25.08.2010, had issued appointment letter to the appellant.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, we do not find any merit in the appeal. The appellant admittedly has 56% marks compared to 68.3% of the respondent no. 10. Further, in view of there being no cogent reason not to grant appointment letter to the respondent no. 10 on 13.08.2010 and 14.08.2010, when admittedly she had appeared for counselling and was placed at No. 1 in the list of selected candidates, the deferment of the same clearly indicates *mala fide* and also raises *bona fide* doubts about the sanctity of the so called



second counselling on 29.12.2010. Further, the contention of respondent no. 10 that she, along with another candidate namely Smt. Punita Kumari, had visited the Panchayat on 29.12.2010 and 30.12.2010 but the Panchayat Secretary was not present at the Panchayat Bhawan and they had to return disappointed, has rightly been accepted by the Tribunal because there is no conceivable or plausible reason as to why the respondent no. 10 having far better marks than the appellant and being the No. 1 in the list of selected candidates, would not appear for getting the appointment letter. The factual aspects dealt with in the order of the Tribunal, which was impugned before the learned Single Bench, have not been controverted by the appellant except for reiterating that she was the only candidate present on 29.12.2010 leading to her appointment. Since the Panchayat Teachers are paid from government coffers, their engagement has to be strictly in accordance with the scheme of such appointment and must be in an open and transparent manner with the sole objective that merit does not become a casualty. In the present case, the Tribunal has interfered in the appointment of the appellant since a far more meritorious candidate i.e., the respondent no. 10 was denied such appointment on the basis of fraud committed during course of such selection process. Thus, dismissal of the writ petition by a learned Single Bench does not warrant any interference and

accordingly, the Letters Patent Appeal stands dismissed.

(Ahsanuddin Amanullah, J)

Hemant Gupta, J *I agree.*

(Hemant Gupta, J)

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