

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2724 of 2013

Prakash Narayan S/o Sri Rama Kant Singh, R/o Mohalla- Haziapur Road, Ward No. 11, P.S.-Gopalganj, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Ministry of Human Resources, Government of Bihar
2. The District Magistrate, Gopalganj
3. The District Education Officer, Gopalganj
4. The District Program Officer (Establishment), Gopalganj
5. The Block Education Officer, Gopalganj
6. The Panchayat Sachiv, Panchayat Raj Bishunpur East, Block- Gopalganj, District- Gopalganj
7. The Mukhiya, Panchayat Raj Bishunpur East Block- Gopalganj, District- Gopalganj
8. Suman Kumari W/o Sri Ajay Pandey, R/o Village-Karanpura, P.O.- Karwatahi Bazar, P.S.- Gopalpur, District- Gopalganj.

.... Respondent/s

Appearance :

For the Petitioner/s :M/s Mayanand Jha and Harendra Prasad

For the Respondent/s :M/s Dhurjati Kr Prasad, GP-7 and Ranjeet Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-06-2016

It is one of the most disturbing case where the tainted process of selection has been followed from the initial stage. The petitioner and one Satish Kumar Singh were appointed, their services were challenged by Suman Kumari, Respondent no. 8 before the District Teachers Appointment Appellate Tribunal and the case was registered as Case no. 12/2011. The Tribunal, vide its order dated 27.12.2012, found the appointment of this petitioner to be illegal and directed for fresh selection. It was



found that entire selection process was done in a very tainted manner, he also recorded that Rukshana Khatoon had not applied for the post of Urdu Teacher, has been adjusted against the vacancy meant for the Urdu so much so the Tribunal has also found, the petitioner and Satish Kumar Singh were involved in making change and interpolation of record. The petitioner challenged this order along with Satish Kumar Singh in C.W.J.C. No. 2434 of 2013 and Satish Kumar Singh later on, withdrew the case.

In the present application the petitioner has specifically pleaded that the order passed in favour of Suman Kumari, Respondent no. 8 is forged and fabricated. The serious allegation has been made by the petitioner in the body of writ petition, this Court has handed over the case to Police, directed to institute the case and start investigation.

During the investigation it was found that Satish Kumar Singh was brother of Block Education Officer, at whose instance, the records of selection was changed. Rukshana Khatoon has been shown to be appointed against the post meant for the Urdu is completely wrong, as she had never applied for the said post, though she had applied for the general post. During investigation it was also found that Suman Kumari and Pradeep

Nath Tiwari the then Presiding Officer were found involved in creating the forged and fabricated order of the Appellate Tribunal.

The sanction for prosecution has been obtained against Pradeep Nath Tiwari and accordingly, Pradeep Nath Tiwary the then Presiding Officer and two others attached to the Office of District Teachers Employment Appellate Tribunal, Gopalganj have also been made accused.

The Police submitted the charge sheet dated 12.02.2013 (Annexure-12 to this writ application) in which two persons, namely, Suman Kumari and her husband Ajay Pandey have been made accused. Subsequently the Police submitted further charge sheet on 12.02.2013 (Annexure-12/A to this writ application) where Nagendra Dubey and others have been made accused.

One of the startling facts has come to the notice of this Case, the Block Education Officer who was the leader of changing the records, has been left out in the column of accused persons.

This Court is not giving any opinion, but from the record it appears that Satish Kumar Singh was brother of the Block Education Officer.

It has also come during the investigation that the

selection register was changed only for the purposes of accommodation of Satish Kumar Singh at the instance of the Block Education Officer.

It has been submitted by Respondent no. 8, in the case diary, name of the present petitioner had also emerged. This Court, vide order dated 09.07.2013, issued the notice to Respondent no. 9 of C.W.J.C. No. 2434 of 2013, in the meantime the petitioner was allowed to continue in the work in the said school but later on, looking to the gravity of the matter and the materials collected in Gopalganj P.S. Case No. 52 of 2013 lodged on the direction of the Court, it has been recorded by the Police that the tainted records were used in the selection as well as the order of the Tribunal has also been found to be tainted. It appears that the District Education Officer also enquired into the matter and also submitted the report dated 5.3.2014(Annexure-A to the supplementary counter affidavit filed by one Suresh Prasad) where he has found that illegality is at large. It also emerges from the records of the case, the two selection lists were prepared, first selection list and second selection list, whatever the names were there in the first selection list except few names in the second select list, rest names were found absent, even though persons namely Satish Kr. Singh and others had not applied, were

accommodated, so from looking to the entire facts and circumstances it gives actual inference that the entire selection is marred with illegalities, shows a complete disobedience of the law.

The counsel for the petitioner submits that there is no allegation against the petitioner, he was involved in any manner in changing the records of the case, he should be allowed to perform the duty, but from perusal of the fact which has come during investigation and the report that has come before this Court, the selection of candidate cannot be sanctified, as process of selection suffers from illegality and in a wrong manner and a wrong method, first list, second selection list were prepared. The Police has already submitted the charge sheet, in such circumstances, it will not be proper that those, who have been selected, should be allowed to discharge the duty, otherwise it will amount to giving premium to illegal act, in such cases, it will lead to give inference of approval of act of Panchayat Samittee.

In view of facts and circumstances of the case, this Court declares that such type of process of selection of teachers is completely illegal, bad and is not sustainable in law, but it is not end of the matter, let the Panchayat Samiti start a fresh counselling of those persons, who have applied against the



advertisement in second phase of selection with respect to Gram Panchayat Raj Vishunpur East. Before initiation of fresh counselling the selection Committee would get the register verified countersigned by the Collector of District and the verified register would only be used/taken in the counselling. Those, who have applied for the post of Panchayat Teacher of the said Gram Panchayat, will participate in the counselling.

The Panchayat Selection Committee will give a proper notice under registered cover with a sufficient time to all the candidates for participating in the counselling so much so dates events would be notified in hindi newspaper which is circulated in the area. The trial Court while taking cognizance in the case, would examine records of case and materials collected during investigation, would act in accordance with law. The trial Court is also directed to complete the trial within a period of one year from the date of taking cognizance and if the trial is not concluded within the aforesaid period, the trial Court would submit the report before this Court assigning the reason for non-completion of the trial.

As the matter is of 2008, if any person has become over age will be granted exemption and will not be basis for disentitlement of consideration for selection to the post of

Panchayat Teacher.

Accordingly, this writ petition is disposed of.

This Court, vide order dated 10.03.2014 in C.W.J.C. No. 2434 of 2013, passed the stricture against one Prabhakar Pathak, Investigating Officer, against that he filed L.P.A. No. 677 of 2014.

The Division Bench has arrived to finding that the stricture has been passed without giving any proper opportunity to explain his stand and accordingly, the stricture passed against Prabhakar Pathak has been kept in abeyance and the matter has been remanded back.

In pursuance of the order passed in L.P.A. Prabhakar Pathak has filed show cause explaining his stand with respect to the stricture made against him by the Writ Court. The copy of the show cause has just now been handed over to the counsel for the State.

The counsel for the State makes a prayer for one week's time.

Accordingly, the Office is directed to place this case after one week under the heading "To Be Mentioned" only for the purpose of consideration of the show cause filed by Prabhakar Pathak the then Investigating Officer with respect to observation

made against him by this Court.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.07.16
Transmission Date	