

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1359 of 2013

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Asha Kumari D/O Sri Ram Ekbal Hathi W/O Sri Satish Kumar Jain Resident Of
Village Laxmipur, P.O. - Bhutahi, P.S. - Sonbarsa, District - Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary Human Resources Development
Department, Govt. Of Bihar
2. The Director Primary Education, Govt. Of Bihar Patna
3. District Magistrate, Sitamarhi
4. District Education Officer, Sitamarhi
5. Block Development Officer, Sonbarsa, Distt - Sitamarhi
6. Block Education Officer, Sonbarsa, Distt - Sitamarhi
7. Panchayat Secretary, Gram Panchayat Raj, Bishunpur, Gonahi, Block - Sonbarsa,
Distt - Sitamarhi
8. Mukhiya, Gram Panchayat Raj, Bishunpur, Gonahi, Block - Sonbarsa, Distt -
Sitamarhi
9. The Member District Teacher Appointment Appellate Authority, Sitamarhi
10. Kumari Priti D/O Sri Girishendra Jha Resident Of Village - Parsa Mahind, P.O.
- Bhutahi, P.S. - Sonbarsa, Distt - Sitamarhi
11. Selection Committee, Gram Panchayat Raj, Bishunpur, Gonahi, Block -
Sonbarsa, Distt - Sitamarhi

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh, Adv.

For the Respondent/s : Mr. Ramadhar Singh, GP25

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-12-2016

Heard Mr. Shailendra Kumar Singh, learned counsel for the
petitioner and Mr. Ramadhar Singh, GP-25 for the State.

With the consent of the parties the writ petition has been
heard with a view to final disposal at the stage of admission itself.

The petitioner is aggrieved by the order dated 14.12.2012
passed by the District Teacher Appointment Appellate Authority,
Sitamarhi (hereinafter referred to as 'the Appellate Authority') in Case



No. 36/2012, whereby the Appellate Authority has proceeded to cancel the appointment of the petitioner as a Panchayat Teacher in Navshrijit Prathmik Vidyalaya, Lohkhar Tola, Supaina, Gram Panchayat Raj, Bishunpur, Gonahi in the district of Sitamarhi with further direction to the Appointment Committee to take steps for appointment afresh.

The notice issued to respondent no.10, who was the appellant before the Appellate Authority, has been received by her father but she has not responded to the notice and an affidavit of jointness has since been filed by the petitioner.

The complaint filed by respondent no.10 is at Annexure 5, which runs into three paragraphs and makes averment against one Ambalika Kumari, who according to the complainant with lesser marks, was granted preference over the complainant leading to her appointment. In other words, respondent no.10 was aggrieved by the appointment of one Ambalika Kumari and the ground raised was that she had obtained lesser marks than the complainant. The petitioner in the circumstances was not arrayed as a party, rather strangely the Appellate Authority while examining inter-party contest in between respondent no.10 and Ambalika Kumari has proceeded to hold a roving enquiry into the selection process as a whole to conclude that the appointment of one Mahendra Purbey and Asha Kumari was



illegal. Thus, while cancelling the appointment of these two persons, namely, Mahendra Purbey and Asha Kumari a direction has been issued to the Appointment Committee to make fresh appointment from the merit list. Clearly the Appellate Authority has exceeded its jurisdiction for neither there was any complaint against the appointment of the petitioner nor there was any complaint against Mahendra Purbey.

As I have mentioned at the outset, the complaint at Annexure-5 runs into three paragraphs and the only grievance of respondent no.10 is that one Ambalika Kumari has been wrongly given preference over her candidature. The Appellate Authority while examining the inter-party dispute has exceeded its jurisdiction to comment upon the selection process even in absence of any complaint in this regard. The issue as regarding jurisdiction vested in the Appellate Authority constituted under the Bihar Panchayat Elementary Teachers (Appointment and Service Condition) Rules came up for consideration before a Division Bench in a matter reported in 2016(1) PLJR 836 (**Puja v. The State of Bihar & ors.**) and the opinion of the Division Bench in paragraph 5 read alongwith its conclusion at paragraph 9 would squarely apply to the case of the petitioner herein, which reads as follows:



5.

we may clarify that complaint is not an appeal for justice in the present context. While entertaining a complaint or a grievance, its jurisdiction is limited to what is complained against. It cannot undertake a roving inquiry into all aspects of the matter connected or unconnected with the complaint, it has no power of superintendence. Thus, when Nita Kumari filed a complaint/ appeal before it, challenging the selection of Nitu Sinha, the jurisdiction of Tribunal was restricted to this inter-party dispute. The Tribunal, on its own, could not enlarge on its own jurisdiction to become supervisory authority over the entire selection process and pass judgment thereon. Any judgment, which was to be rendered by the Tribunal, was restricted to the lis inter-party.

9. Thus, in a matter of dispute between Nita Kumari and Nitu Sinha, the Tribunal could only decide that lis and not beyond that. Thus, in our view, the Tribunal erred and acted wholly without jurisdiction to hold a roving inquiry and then to hold that the entire selection process stood vitiated. That was never being challenged before the Tribunal. The Tribunal did not acquire any jurisdiction in the matter."

Like in the present case, even in the case of **Puja (supra)** the Tribunal while examining an inter-party dispute had proceeded to hold an enquiry into the selection process as a whole and which



exercise of jurisdiction was held illegal by the Division Bench.

In view of the legal position settled by the Division Bench in the judgment rendered in the case of **Puja (supra)** and considering that there was no challenge to the appointment of the petitioner by respondent no.10 in Case No. 36/2012, the order passed by the Appellate Authority in Case No. 36/2012 to comment upon the appointment of the petitioner and one Mahendra Purbey, which were never put to question before the Appellate Authority, is wholly without jurisdiction rendering the order unsustainable in law.

For the reasons aforementioned, the order dated 14.12.2012 passed by the District Teacher Appointment Appellate Authority, Sitamarhi in Case No. 36/2012 cannot be upheld and is quashed in its entirety. The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	26.12.2016
Transmission Date	NA

