

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4302 of 2011

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1. Jitendra Kr. Mishra S/O Shivshankar Mishra Village-Mishra Bigha, P.O.-Chandragarh, P.S.-Navinagar, Distt.-Aurangabad
 2. Shyam Bihari Singh S/O Bhagwati Singh R/O Village-Ratauna, P.O. + P.S.-Navinagar, Distt.-Aurangabad
 3. Premsheela Devi W/O Sinesh Singh R/O Village-Kharaunda, P.O.-Chanhdragarh, P.S.-Navinagar, Distt.-Aurangabad
 4. Chinta Devi W/O Puneet Rajak R/O Village-Karma Fathepur, P.O.-Tanhdwa, P.S.-Navinagar, Distt.-Aurangabad Petitioners

Versus

1. The State Of Bihar
 2. The District Appellate Tribunal Aurangabad Through Its Chairman
 3. The Principal Secretary, Human Resource Development Department, Govt. Of Bihar, Patna
 4. The District Magistrate, Aurangabad
 5. The District Superintendent Of Education, Aurangabad
 6. The District Development Commissioner, Aurangabad
 7. The Mukhiya, Gram Panchayat Chanhdraqgarh, Block-Navinagar, Distt.-Aurangabad
 8. The Panchayat Secretary, Gram Panchayat Chandragarh, Block-Navinagar, Distt.-Aurangabad Respondents
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Appearance :

For the Petitioner/s : Mr.Rajendra Prasad Singh, Sr. Advocate and
Mr NAVJOT YESHU, Advocate
For the Respondent/s : Mr. RISHIRAJ SINHA GP19

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 18-05-2016

Petitioners seek quashing of the order contained in Memo no. 714/SSA dated 11.5.2007, passed by the DSE, Aurangabad (respondent no.5) as well as order dated 11.11.2010, passed by the District Teachers Appellate Tribunal affirming the same.

Petitioners submit that the facts of the case are not in dispute. Petitioners were initially appointed as Siksha Mitra. In the meantime, Government framed Bihar Panchayat Teachers



(Employment and Service Conditions) Rules, 2006. By operation of Rule 21 of the said Rules, persons who were working as Siksha Mitra were automatically absorbed as Panchayat/Prakhand teachers. The issue whether the initial appointment of Panchayat Siksha Mitra can be questioned once he or she was absorbed as Panchayat teacher was subject of consideration in the case of Kalpana Rani Vs. State of Bihar (2014 (2) PLJR 665) wherein the ratio laid down in the case of [Renu Kumari Pandey vs. State of Bihar](#) (2011 (4) PLJR 297) was reiterated and affirmed. There is no allegation of element of fraud in the appointment of the petitioners. In this view of the matter, the judgment rendered in Full bench would be applicable. As such the impugned orders dated 11.5.2007, passed by the DSE, Aurangabad and approved in appeal vide order, dated 11.11.2010 by the District Teachers Appellate Tribunal, Aurangabad are not sustainable and are accordingly set aside.

Petitioners would be reinstated in service.

(Samarendra Pratap Singh, J)

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