

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3211 of 2013

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1. Ifat Parween D/o Md. Shoaib Khan, R/o Village- Majhauri, P.O.-Majhauri, P.S. And Distt.- Vaishali.
 2. Rajendra Kumar S/o Kapildeo Singh, R/o Village- Majhauri, P.O.-Majhauri, P.S. And Distt.- Vaishali.
 3. Laliteshwar Kumar S/o Mahendra Singh R/o Village- Majhauri, P.O.-Majhauri, P.S. and Distt.- Vaishali.
- Petitioner/s

Versus

1. The State of Bihar
 2. The District Magistrate, Vaishali at Hajipur
 3. The District Superintendent of Education, Vaishali At Hajipur
 4. The Block Development Officer, Vaishali, District- Vaishali
 5. The Block Education Extension Officer, Vaishali East, District- Vaishali at Hajipur
 6. The Secretary, Gram Panchayat Raj, Majhauri Block, Vaishali, District-Vaishali At Hajipur
 7. The Mukhiya Gram, Panchayat Raj Majhauri Block Vaishali, District-Vaishali At Hajipur
 8. Binod Kumar S/o Hem Narain Singh R/o Barahatia, P.S.- Vaishali, District-Vaishali At Hajipur, Presently Working as Panchayat Teacher in Middle School Barahatia, Majhauri, P.S. and Distt.- Vaishali
 9. Raushan Kumar S/o Dinesh Prasad Singh R/o Barahatia, P.S.- Vaishali, Distt.- Vaishali at Hajipur, Presently Working as Panchayat Teacher in Primary School Barahatia (Hindi), P.S.- Vaishali, Distt.- Vaishali at Hajipur
 10. Mamta Kumari D/o Sheojee Prasad R/o Majhauri, P.S. and District- Vaishali at Hajipur, Presently Working as Panchayat Teacher in Primary School, Chak Munni, P.S. Vaishali, District- Vaishali at Hajipur
 11. Dilip Baitha S/O Ram Baullan Baitha R/O Mahauri, P.S.- Vaishali, District-Vaishali at Hajipur, Presently Working As Panchayat Teacher in Primary School, Manjhauli, Chak Manjheed P.S. And Distt.- Vaishali
 12. Umesh Chandra Thakur S/o Rajendra Thakur R/o Majhauri, P.S. and Distt.- Vaishali at Hajipur, Presently Working as Panchayat Teacher in Primary School, Pachapika, P.S. and Distt.- Vaishali at Hajipur
 13. Shamim Ahmad Hassan S/o Md. Ali R/o Majhauri, P.S. and Distt.- Vaishali, Presently Working as Panchayat Teacher in Primary School, Majhauri Makhtalia, Distt.- Vaishali.
 14. Md. Shamim S/o Md. Jallaluddin R/o Jaganpura, P.S.- Vaishali, Distt.- Vaishali at Hajipur, Presently Working as Panchayat Teacher in Primary School Majhauri (Urdu), P.S. And Distt.- Vaishali.
- Respondent/s

with

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Civil Writ Jurisdiction Case No. 22076 of 2012

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1. Mamta Kumari D/o Sheojee Prasad Resident of Manjhauli P.S. Vaishali, Dist Vaishali At Hajipur At Present Working As Panchayat Teacher In Primary School, Chakmunni P.S. Vaishali District - Vaishali At Hajipur
2. Raushan Kumar S/o Dinesh Pd. Singh Resident Of Barahatia P.S. Vaishali, Dist Vaishali At Hajipur Presently Working As Panchayat Teacher In Primary School

Barahatia Hindi, PS Vaishali, District Vaishali At Hajipur

3. Binod Kumar S/o Hem Narayan Singh Resident of Barahatia, P.S. Vaishali District Vaishali, Presently Working As Panchayat Teacher In Middle School Barahatia Manjahuli P.S. Vaishali Dist Vaishali At Hajipur

4. Shamim Ahmad Hasan S/o Md Ali Resident Of Majhauri P.S. Vaishali Dist Vaishali At Hajipur Presently Working As Panchayat Teacher In Primary School Majhauri Maktoli District Vaishali At Hajipur

5. Dilip Baitha Son of Ram Bachan Baitha Resident of Majhauri P.S. Vaishali District Vaishali at Hajipur Presently Working as Panchayat Teacher In Primary School Majhauri Chak Mahjeed Ps/Dist Vaishali

6. Umesh Chandra Thakur Son of Rajendra Thakur Resident of Majhauri 1/4 Ps/District Vaishali, Presently Working As Panchayat Teacher In Primary School Pachpaika, P.S. And District Vaishali

7. Md. Shamim Son of Md. Hallaluddin Resident of Jaganpura PS / Dist Vaishali Presently Working As Panchayat Teacher In Primary School Majhauri (Urdu), P.S. Vaishali District Vaishali at Hajipur. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Human Resources Development Department Bihar, Patna

2. The Director Primary Education, Bihar, Patna

3. The District Magistrate Vaishali at Hajipur

4. The District Education Officer Vaishali at Hajipur

5. The District Programme Officer Vaishali at Hajipur

6. The Block Education Officer, Vaishali Dist Vaishali at Hajipur

7. The Block Development Officer, Vaishali , Dist Vaishali at Hajipur

8. The Secretary, Gram Panchayat Rah Majhauri Block Vaishali District Vaishali at Hajipur

9. The Mukhiya, Gram Panchayat Raj Majhauri Block Vaishali District Vaishali at Hajipur

10. Iffat Praween D/o Md. Soib Khan, Resident of Majhauri P.S. Vaishali at Hajipur

11. Rajendra Kumar S/o Kapildeo Singh, Resident of Village Majhauri P.S. Vaishali Dist Vaishali at Hajipur

12. Laliteshwar Kumar S/o Mahendra Singh, Resident of Majhauri P.S. Vaishali Distt.- Vaishali at Hajipur. Respondent/s

Appearance :

(In CWJC No. 3211 of 2013)

For the Petitioner/s : M/s Dhananjay Kumar Tiwary and
Surendra Kishore Thakur, Advs.

For the Respondent/s : Mr. A.Ujjwal, SC-25

(In CWJC No. 22076 of 2012)

For the Petitioner/s : M/s Bipin Behari Singh, K.P. Gupta, S.K. Saraf, Advs.

For the Respondent/s : Mr. Anil Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-01-2016

Heard learned counsel for the petitioners and learned

counsel for the respondents.

In CWJC No. 3211 of 2013

In the present case, petitioners have raised grievance that in pursuance of the order dated 16th October 2012 passed by the District Teacher Appointment Appellate Tribunal, Vaishali at Hajipur in Case No. HC-172 of 2011, the services of the petitioners have been dispensed with and the prayer has been made to quash the order passed by the Appellate Tribunal to the extent, it has been directed for termination of services of the petitioners.

The petitioners and others applied for the post of Shiksha Mitra in Gram Panchayat, Majhauri in the year 2003. The Sukh Subidha Committee convened its meeting. After due deliberation, the petitioners were appointed as Shiksha Mitra for eleven months. After the lapse of eleven months again the services of petitioners were extended for further eleven months. 3rd time also petitioners were appointed as Shiksha Mitra but by that time, the Bihar Panchayat Primary Teachers (Elementary and Service Conditions) Rules, 2006 was enforced and in terms of Rule 20 sub-rule (iii), all the persons who were working as Shiksha Mitra, were absorbed as Panchayat Teacher, accordingly, petitioners were also brought as Panchayat Teacher.

After a long lapse of time, Iffat Praween, Rajendra

Kumar and Laliteshwar Kumar filed a case before the Appellate Tribunal which was registered as Case No. HC-172 of 2011.

While considering the case of the parties, the Appellate Tribunal has found that Iffat Praween, Rajendra Kumar and Laliteshwar Kumar were wrongly deprived of the post of Shiksha Mitra and they should have been appointed.

In view of the instruction of the Government that the persons who were wrongly deprived of the post of Shiksha Mitra on account of abolition of post of Shiksha Mitra, they cannot be brought back to the post of Shiksha Mitra, but the Government instruction has provided that the appointment of those persons who were illegally adjusted, can be looked into. On the basis of this letter, Iffat Praween and others were not given any benefit. This issue came for consideration about the case of the Shiksha Mitra who were illegally deprived in Renu Kumari Pandey vs. State of Bihar, reported in 2011 (4) PLJR 297 where this Court has taken the view that as the post of Shiksha Mitra has been abolished, the question of persons for bringing them back to the post of Shiksha Mitra does not arise, so much so that no forum has been provided to examine the correctness of the appointment of Shiksha Mitra that again came for consideration in Full Bench judgment reported in 2014 (2) PLJR 665 (Kalpana Rani vs. State of Bihar [F.B.]) where the Full Bench has approved the

judgement of Renu Kumari Pandey (supra) and as such, Iffat Praween and others cannot be given any benefit. Accordingly, CWJC No. 3211 of 2013 is dismissed.

In CWJC No. 22076 of 2012

Now the question arises about Mamta Kumari and others, as has been recorded by the Tribunal that Mamta Kumari and others were illegally adjusted as Shiksha Mitra in the year 2003.

The counsel for the petitioners submits that the appointment of Shiksha Mitra in the year 2003 was for eleven months and later on, their services were extended for eleven months at two times more and every time it is a fresh appointment and they were allowed to the post of Shiksha Mitra, having no nexus with the earlier appointment. He further submits that there is no challenge to the appointment of Shiksha Mitra on subsequent occasion and as such, even the appointment of Shiksha Mitra in the year 2003 is declared to be illegal, will not effect the subsequent appointment and conversion of those petitioners to the post of Panchayat Teacher and placed reliance on the judgment reported in 2009 (2) PLJR 929 (Alok Kumar vs. State of Bihar), order passed in CWJC No. 5992 of 2008 (Md. Unush vs. State of Bihar & Ors.) and order passed in CWJC No. 6759 of 2010 (Yogendra Kumar vs. State of Bihar & Ors.). In all the three judgments, the Court has opined that the subsequent appointment as

Shiksha Mitra is distinct and independent appointment, having no relationship with the earlier appointment. Unless the subsequent appointment is challenged, the person cannot be deprived of the benefit on account of the first illegal appointment, as in the present case the challenge is of the year 2003 appointment, but there is no challenge of subsequent appointment.

The counsel for the respondent has placed reliance on judgment reported in 2011 (2) PLJR 822 (Aradhna Kumari vs. State of Bihar) which would be applicable if the subsequent appointments of Mamta Kumari and others were under challenge.

In such view of the matter, placing reliance on the aforesaid judgments, order passed by the Appellate Tribunal in the case of Mamta Kumari and others, is hereby quashed and the respondents are directed to bring back these petitioners in their respective posts.

With the above observation and direction, CWJC No. 22076 of 2012 is allowed.

(Shivaji Pandey, J)

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