

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17470 of 2010

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Shilpi, W/O Sushil Kant Pathak, R/O Village- Goari, P.O.-Nandauti, P.S.Basnahi,
Distt-Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary Old Secretariat Bihar, Patna
2. The Principal Secretary Human Resources Development Department
Government of Bihar, Patna
3. The Director, Primary Education Government of Bihar, Patna
4. The District Magistrate, Saharsa
5. The District Teachers Appointment Tribunal through its Member, Saharsa
6. The District Superintendent of Education, Saharsa
7. The Block Education Extension Officer, Sonbarsa, Distt-Saharsa
8. The Headmaster Primary School Saroni, Anchal Sonbarsa, Distt-Saharsa
9. The Mukhiya Gram Panchayat Saroni Madhepura, P.S.Basnahi, Distt-Saharsa
10. The Panchayat Secretary Saroni Madhepura Gram Panchayat Block-Sonbarsa,
Distt-Saharsa
11. Pranav Kumar Pritam S/O Sri Vijay Prasad Patel Vill-Bajraha, P.Omahua
Bazar, P.S. Basnah, Distt-Saharsa
12. Santosh Suman S/O Ramavtar Mandal Vill Bajraha, P.O.Mahua Bazar,
P.S.Basnahi, Distt-Saharsa
13. Jan Ranjan Mishra S/O Chandra Shekhar Mishra R/O Vill Boari, P.O.Nanauti,
P.S.Basnahi, Distt-Saharsa

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bam Bahadur Jha, Advocate

For the Respondent/s : Mr. Shailendra Kumar, AC to PAAG-2

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 23-11-2016

Heard parties.

The petitioner after having been selected as Shiksha Mitra
joined in pursuance of the Annexure-1 dated 18.05.2005 at Primary
School, Saroni on 21.05.2005. Thereafter, the petitioner was sent for
training which commenced on 23.04.2006 and ended on 21.09.2006.
She started discharging her duty to the satisfaction of the competent



authority. After selection of the petitioner, the private respondents approached this Court by filing C.W.J.C.No.11308 of 2006 against the selection of the petitioner and others raising several allegations. The matter was disposed of relegating it to the District Teachers Appointment Appellate Authority (hereinafter referred to as 'the Authority'). Thereafter, three appeals were filed by the respondent nos. 11, 12 and one Jan Ranjan Mishra which were heard together and have been disposed of by a common order dated 31.08.2010 (Annexure-3).

The Authority vide Annexure-3 has recorded a finding that certain irregularities have been committed while passing orders of engagement of such persons including the petitioner. Therefore, it has recommended to cancel the engagements. However, it has refused to give a direction for engagement of appellants as Shiksha Mitra in view of the fact that all the orders/circulars etc. which were effective earlier were repealed by subsequent orders/directives of the State Government and, therefore, there cannot be any engagement on the post of Shiksha Mitra.

Notices have been issued upon the respondent nos. 9 to 12 but none is present at the time of hearing on their behalf.

Sole ground raised by the petitioner is that in view of the decision of Full Bench of this Court rendered in *Kalpana Rani Vs.*



State of Bihar [2014(2) PLJR 665] as well as the *Division Bench judgment in the case of Renu Kumari Pandey Vs. State of Bihar [2011 (4) PLJR 297]*, after coming into force of the Bihar Panchayat Teachers (Employment and Service Conditions) Rules, 2006, the Authority did not have any jurisdiction to examine the correctness or otherwise of engagements/appointments made as Shiksha Mitra since all the circulars, guidelines and resolutions relating to appointment of Shiksha Mitra stood repealed by 2006 Rule.

Learned counsel draws attention of this Court towards unreported decisions dated 11.07.2014 rendered in CWJC No.18937 of 2010 (Sanjay Kumar Vs. The State of Bihar and Ors.) as well as order dated 5.11.2014 rendered in CWJC No.18843 of 2010 (Subodh Kumar Jha Vs. The State of Bihar and Ors.) to impress upon this Court that both the cases arise out of the same order of the Authority which has been appended as Annexure-3 and in those cases, the Authority's order has already been quashed and set aside after having found to have been passed beyond its jurisdiction.

Accordingly, this writ application also stands allowed in terms thereof and the Full Bench judgment. The impugned order dated 31.08.2010 passed by the Authority to the extent that it concerns the petitioner stands quashed and set aside having found to have been passed beyond its jurisdiction.



The petitioner would be entitled for payment of salary/remuneration for the period during which she had worked as Panchayat Teacher within a period of two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.03.2017
Transmission Date	N.A.

