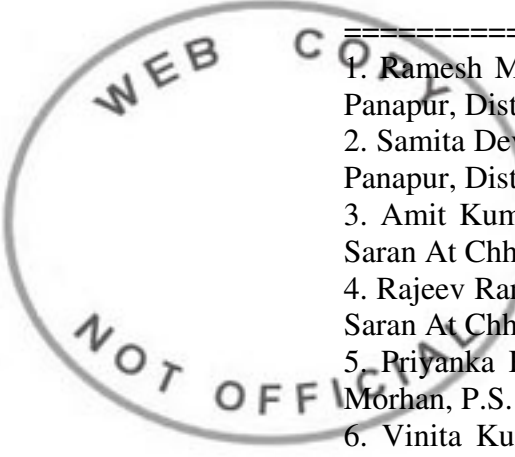


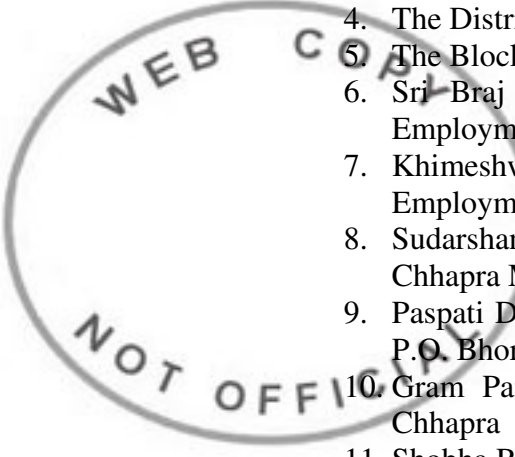
IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20533 of 2013

- 
1. Ramesh Mahto S/O Late Nirgun Mahto Vill. - Mamaura, P.O. Dubauli, P.S. Panapur, Distt. - Saran at Chhapra
 2. Samita Devi D/O Bishwanath Rai, W/O Rajesh Kumar Vill. - Chimanpura, P.S. Panapur, Distt. - Saran At Chapra
 3. Amit Kumar Manjhi S/O Madan Manjhi Vill - Semri, P.S. Mashrak, Distt. - Saran At Chhapra
 4. Rajeev Ranjan Prasad S/O Ramjatan Sah Village - Jipura, P.S. Panapur, Distt. - Saran At Chhapra
 5. Priyanka Kumari D/O Shri Raghunath Singh, W/O Abhimanu Singh Vill. - Morhan, P.S. Panapur, Distt. - Saran At Chhapra
 6. Vinita Kumari D/O Kaushal Kishore Singh Vill. - Maghri, P.S. Basantpur, Distt. - Saran At Chhapra
 7. Sunita Kumari D/O Adalat Tiwari, W/O Awadh Kishore Tiwari Vill. - Basantpur, P.S. Panapur, Distt. - Saran At Chhapra
 8. Lalan Prasad Singh S/O Late Gorakh Singh Vill. - Pakri Narotam, P.S. Panapur, Distt. - Saran At Chapra
 9. Anish Kumar S/O Harendra Singh Vill. - Maghri, P.S. Bhagwanpur, Distt. - Siwan
 10. Jitendra Kumar Singh S/O Bhikhari Singh Vill. - Sahwajpur, P.S. Panapur, Distt. - Saran At Chhapra
 11. Rima W/O Om Prakash Kumar Village - Dhenurui, P.S. Panapur, Distt. - Saran At Chhapra
 12. Indu Devi W/O Mahesh Rai Village - Bhorah, P.S. Panapur, Distt. - Saran At Chhapra
 13. Pankaj Prasad S/O Ram Pravesch Prasad Vill. - Sahwajpur, P.S. Panapur, Distt. - Saran At Chhapra
 14. Santosh Kumar Mehta S/O Ram Ayodhya Mehta Vill. - Usri Chandpur, P.S. Taraiya, Distt. - Saran At Chhapra
 15. Arun Kumar Prasad S/O Raj Kumar Prasad Vill. - Dubauli, P.S. Panapur, Distt. - Saran At Chhapra
 16. Renu Kumari D/O Bishnudeo Singh, W/O Manoj Kumar Singh Village - Pratappur, P.S. Awtarpur, Distt. - Saran At Chhapra
 17. Umesh Kumar Ranjan S/O Laldhar Ram Vill. - Rasauli, P.S. Panapur, Distt. - Saran At Chhapra
 18. Malti Kumari D/O Jagannath Prasad, W/O Chhadilal Prasad Vill. - Dahiyawan, P.S. Nagar, Distt. - Saran At Chhapra
 19. Anita Kumari D/O Bhagwan Singh, W/O Akhilesh Kumar Singh Vill. + P.O. Dhenuki, P.S. Panapur, Distt. - Saran At Chhapra
 20. Sarita Kumari W/O Rajeev Kumar Vill. + P.O. Balia, P.S. Maharajganj, Distt. - Siwan
 21. Malti Kumari D/O Bidhasagar Prasad, W/O Pinku Kumar Vill. + P.O. Bangra, P.S. Jalalpur, District - Saran At Chhapra
 22. Seema Kumari D/O Dewanand Pandey Vill. - Hasabir, P.S. Basrak, Distt. - Saran At Chhapra
 23. Dimpri Kumari D/O Kameshwar Singh Vill. - Balhan, P.S. Amnaur, Distt. - Saran At Chhapra

.... Petitioner/s

Versus

- 
1. The State of Bihar
 2. The Director, Primary Education, Government of Bihar, Patna
 3. The District Magistrate, Saran at Chhapra
 4. The District Education Programme Officer (Establishment), Saran at Chhapra
 5. The Block Development Officer, Panapur, District Saran at Chhapra
 6. Sri Braj Nandan Prasad, son of not known, Member, District Teachers Employment Appellate Authority, Saran at Chhapra
 7. Khimeshwar Rai, son of not known, Bench Clerk, Member, District Teachers Employment Appellate Authority, Saran at Chhapra
 8. Sudarshan Ram, son of Shneo Lochan Ram, resident of Village Turkwalia, P.S. Chhapra Muffassil, P.O. Naini, District Saran at Chhapra
 9. Paspati Devi, wife of late Chandradip Rai, Mukhiya, Gram Panchayat Bhora, P.O. Bhora, P.S. Panapur, District Saran at Chhapra
 10. Gram Panchayat Bhora though its Panchayat Secretary, District Saran at Chhapra
 11. Shobha Rai, son of Chandradip Rai, Village Bhora, P.O. Bhora, P.S. Panapur, District Saran at Chhapra
 12. The Block Education Officer, Panapur, Saran at Chhapra

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajendra Singh, Sr. Advocate
Mr. Rajeev Kumar Singh, Advocate.
For the State : Mr. Ashok Kumar Pathak, AC to GPXI
For Respondent No.7 : Mr. Rananjay Kumar, Advocate.
For Respondent No.8 : Mr. Sanjay Kumar Mishra, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-02-2016

Heard the parties.

2. Learned counsel for the petitioners is permitted to make necessary correction in the pleading of the writ petition.

3. In the present writ petition, petitioners are challenging the order dated 1.7.2013 passed by Member, District Teachers Employment Appellate Authority, Saran at Chapra by which they have wrongly been deprived from their appointment as Panchayat Teachers.

4. In the present case grievance has been raised by the

petitioners that they have wrongly been deprived from their appointment as Panchayat Teachers of Gram Panchayat Bhorah, District Chapra.

5. Brief facts of the case is that in the year 2008 vacancy was published for the appointment of Panchayat Teachers in the Gram Panchayat Bhorah, District Chapra. The date for counseling of candidates was fixed o 28.2.2009. Accordingly on that date the petitioners have appeared along with others and on the same day provisional list was published. After receipt of objection final selection list was prepared in which respondent no.11 who is son of respondent no.9 (Mukhiya) was appointed.

6. As per claim of the petitioners, 31.12.2010 was the date fixed for giving letter of appointment but the same was not done. Here one important fact is also noticed that after finalization of the select list Panchayat Secretary, respondent no.8, while coming from the Block office some unknown persons snatched the select list and other related documents. He filed a complaint, the Magistrate sent the same for investigation and registration of regular case under Section 156(3) of the Code of Criminal Procedure, the police submitted final form. Petitioners filed an application under Right to Information Act to provide information with regard to select candidates. Annexure 3 series,

which is part of this writ petition, comprising select list where the name of these petitioners are standing and finally they have been deprived from the appointment.

7. Learned counsel for the petitioners submits that being aggrieved by the action of the Panchayat unit of being deprivation of letter of appointment the petitioners approached to the Tribunal vide Case Nos. 2 of 2012, 5 of 2012, 6 of 2012, 9 of 2012, 16 of 2012, 19 of 2012, 24 of 2012, 31 of 2012, 52 of 2012 and 56 of 2012 and Appellate Tribunal has rejected the claim of the petitioners placing reliance on the affidavit filed by respondent no.8. He has drawn the attention of this Court to the order sheet from which indicates that on 22.5.2013 the parties were heard and for passing the final order the next date was fixed for 1.7.2013 but before that on 26.6.2013 written argument of the petitioners was kept on record and on the date of order it has been recorded that Panchayat Secretary has filed an affidavit which was kept on record. On the same day it has been recorded that final order has been passed and appeal has been dismissed. On the same date again it has been mentioned in the order sheet that the Presiding Officer has put his signature and order has been sent for typing and on the same typed copy of final order comprising 8 pages was signed. He has raised grievance that



respondent no.8 who is Panchayat Secretary has been made party by name and he has filed an affidavit where he has stated that he has not filed such affidavit on 1.7.2013. It might be filed by another person taking his name which is matter of enquiry that has not been done by the Presiding Officer. He has raised further grievance that even if the affidavit is filed by him, the Presiding Officer without serving the copy of same to the other side i.e. present petitioner passed the order. The Presiding Officer without serving the copy of affidavit without giving opportunity to give reply passed the order. It is a procedural error which goes to the root of the case.

8. Another point has been taken that petitioners have filed an application for condonation of delay but the Presiding Officer rejected the application also on the ground of limitation matter. It appears that he has ignored to consider their application for condonation of delay and wrongly rejected their application on the ground of limitation also.

9. Notices have been served to the private respondent nos. 9 and 11 but they have chosen to remain absent. So for other respondents are concerned, they are supporting the contentions of the petitioners.

10. In such view of the matter, there is procedural error



committed by the Presiding Officer in not serving the copy of the affidavit which was filed by respondents, placing reliance on statements of affidavit rejected the appeal. It is part and parcel of natural justice that whenever an affidavit is filed statement relating to merit certainly other side is required to be served. So much so affidavit was filed on 1.7.2013 and on the same day he passed the order which speaks procedural error.

11. In such view of the matter, the impugned order dated 1.7.2013 is set aside and matter is remanded back to the Tribunal for fresh consideration. The Presiding Officer will be obliged to make enquiry about filing of affidavit by Sudarshan Ram who has stated before this Court that he has not filed any affidavit though he has filed an affidavit on earlier occasion. The Presiding Officer will make necessary enquiry about genuineness of the affidavit filed on 1.7.2013. If it is found that signature standing in the affidavit dated 1.7.2013 does not tally with the admitted signature the Tribunal will pass the order ignoring the date of affidavit 1.7.2013. The Tribunal may take help of forensic laboratory with regard to verification of his signature. The Tribunal is directed to pass a reasoned order within a period of six month from the date of receipt/production of a copy of this order after hearing the parties and after making necessary enquiry

especially with regard to filing of affidavit by respondent no.8 on 1.7.2013.

12. With the aforesaid observation this application is allowed.

(Shivaji Pandey, J)

Vinay/-

U			
---	--	--	--