

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1639 of 2013
IN
Civil Writ Jurisdiction Case No. 4447 of 2011**

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Ali Imam Son Of Abdul Razaque Resident Of Village Lahayar Chak, P.O.
Alampur Gondpura, P.S. Phulwarisharif, District Patna

.... Appellant

Versus

1. The State Of Bihar Through The Chief Secretary
2. The Principal Secretary, Human Resources Development Department, Bihar, Patna
3. The Director, Secondary Education, Govt. Of Bihar, Patna
4. The Regional Deputy Director Of Education, Patna Division, Patna
5. The District Superintendent Of Education, Rohtas At Sasaram
6. The District Education Officer, Rohtas At Sasaram
7. The State Of Jharkhand Through The Chief Secretary
8. The Principal Secretary, Human Resources Development Department, State Of Jharkhand At Ranchi
9. The Director, Secondary Education, Human Resources Development Department, State Of Jharkhand At Ranchi
10. The Regional Deputy Director Of Education, Santhal Parganas, Dumka, Jharkhand
11. The District Education Officer, Sahebganj, Jharkhand
12. The Additional Secretary, Office Of The Lokayukta, Bihar, Patna

.... Respondents

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Appearance :

For the Appellant/s : Mr. Siya Ram Sahi & Miss Namrata
For the Respondent/s : Mr. Deepak Sahay Jamuar, A.C. to AAG 4
For the State of Jharkhand : Mr. Satyavrat Verma.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 29-11-2016

Heard learned counsel for the appellant, learned counsel
for the State as also learned counsel for the State of Jharkhand.

2. This appeal is directed against the order dated
31.10.2013 passed by the learned Single Judge of this Court in



C.W.J.C. No. 4447 of 2011 by which the writ petition filed by the petitioner was disposed of with the observation that in the facts and circumstances of the case as well as keeping in view various orders passed by this Court in different cases filed by the petitioner, the Court was not inclined to grant any such direction since the appointment of the petitioner was already found to be illegal.

3. The writ petition itself had been filed for quashing the order dated 08.02.2010 issued by the Additional Secretary to the office of the Lokayukta, Bihar by which the petition dated 04.12.2009 filed by the petitioner against the order dated 15.04.2009 passed by the Director, Secondary Education, Bihar and memo no. 2311 dated 20.07.2009 passed by the Principal Secretary, Human Resources Development Department have been rejected and for other reliefs.

4. It appears from the facts of the case that the petitioner was appointed in the year 1988 as a Clerk for three months by order dated 14.04.1988 of the Regional Deputy Director of Education, Santhal Parganas Division, Dumka but continued to remain in service and by order dated 07.12.1993 of the Director, Secondary Education, the appointment of the appellant along with several other persons was cancelled. Thereafter several writ petitions had been filed by the petitioner but without any substantive relief having been granted by this Court. In C.W.J.C. No. 1963 of 1994, disposed of on 14.02.1995,



it was directed that fresh representation be filed by the petitioner which was to be examined by the Director, Secondary Education as to whether the case of the petitioner is similar to one Kabindra Kumar Singh and if he finds that the petitioner's case is similar to that of Kabindra Kumar Singh, he shall pass similar order in relation to the petitioner as well. Thereafter the Director, Secondary Education held that the case of the petitioner was different from that of Kabindra Kumar Singh by his order dated 04.05.1996 for which again a writ petition being C.W.J.C. No. 5992 of 1996 was filed.

5. The submission of the State has been that the appointment of the petitioner was made without following any procedure relating to appointment as there was no advertisement nor any panel was prepared nor the approval of the Establishment Committee was taken. In the aforesaid circumstances, this Court came to the conclusion that the appointment of the petitioner has been found to be illegal and, therefore, he is not entitled to get any direction as sought for in the writ application.

6. Learned counsel for the petitioner has now taken a plea by filing 2nd supplementary affidavit that one Rafi Ansari has been reinstated in service with all consequential benefits and the case of the petitioner is similar to that of Rafi Ansari and argued that there is no reason to take a different view as directed by the learned Single



Judge in the matter.

7. After the decision of the Hon’ble Supreme Court in the case of **Secretary, State of Karnataka and others Vs. Uma Devi and others: (2006) 4 SCC 1**, no such illegal appointment can be regularized and direction for one time regularization has been issued only with respect to such persons who were appointed irregularly against vacant sanctioned posts but not illegally.

8. In the aforesaid circumstances, this letters patent appeal is dismissed being devoid of merit.

(Ramesh Kumar Datta, J)

Amin/-

(Birendra Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

