

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3445 of 2013**

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1. Mukul Devi W/O Sri Vijay Mishra R/O Village- Marachhi, P.O.- Semaria, P.S.-  
Nautan, District-Siwan

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Siwan
3. The Block Development Officer, Zeeradei, District- Siwan
4. The Panchayat Secretary, Panchayat Raj Hashua, District- Siwan
5. The Mukhiya, Gram Panchayat Hashua, P.S. Zeeradei, District- Siwan
6. The District Teacher Appointment Appellate Tribunal, Siwan
7. Navab Anshari S/O Shishupaigambar Anshari R/O Village- Titira, P.O.-  
Titara, District- Siwan, at present Teaching In Primary School, Gore Toli Hasua
8. Amrendra Kumar Singh S/O Awadhesh Kumar Singh R/O Village-Badka  
Manjha, P.S.- Mairwa, District- Siwan, At Present Teaching In Primary School  
Gore Toli Hasua
9. Parmshila Yadav D/O Ramlochan Yadav R/O Village- Hathaujee, At Present  
Teaching In Primary Schol, Gore Toli Hasua
10. Upendra Kumar Singh S/O Dodha Singh R/O Village- Akalhi, P.S.- Mairwa,  
District-Siwan, At Present Teaching In Primary School, Gore Toli Hasua
11. Babita Kumari D/O Achhelal At Present Teaching In Primary School Gore Toli  
Hasua, P.S.- Badali, District-Siwan
12. Nitu Panday D/O Kanhaiya Panday R/O Village- Makriyar, P.S. Dhanuti O.P.  
Siwan Muffasil, District- Siwan, At Present Teaching In Primary School Gore Toli  
Hasua

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Chandra Kant, Advocate.

For the Respondent/s : Mr. Arvind Kumar, AC to SC 28

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 15-03-2016**

Heard learned counsel for the petitioner and learned  
counsel for the State.

2. In the present writ petition, petitioner is challenging the  
order dated 7.12.2012 (Annexure-10) passed by the District  
Teachers Appointment Appellate Tribunal, Siwan (hereinafter

referred to as “the Appellate Tribunal”) in Appeal No. 514 of 2011 whereby the Appellate Tribunal has rejected the claim of the petitioner that her name had not appeared in the register maintained by the appointment unit and arrived to a finding that she had not applied for the post of Panchayat Teacher.

3. The matter relates to the second phase of appointment in which the petitioner had applied for the post of Panchayat Teacher on 17.11.2008 which is apparently clear from Annexure-1 which bears signature of some persons and just after filing of application she filed an application on 19.1.2009 before the Appellate Tribunal, Siwan where she made a complaint that her name has not been brought in the receipt register whereas persons who have secured lesser marks their names have been listed in the merit list. When nothing has happened again she made a complaint before the Appellate Tribunal on 28.2.2009 where she stated that she has applied to the post of Panchayat Teacher vide receipt no.284 and persons who secured lesser marks have been shown in the merit list. Counseling was being conducted at Mahendra Uch Vidyalaya, Ziradei on 28.2.2009. She waited for the information but she did not get an opportunity to appear in the counseling. When she approached and sought reasoning for prohibiting her to appear in the counseling it has been mentioned



that her name has not been added in the counseling list and persons who have obtained lesser marks have been called and their counseling has been done. Request was made to the Appellate Tribunal to take action against the delinquent persons. One letter is brought before this Court vide letter no.406 dated 5.3.2009 issued by the Appellate Tribunal to the Secretary, Panchayat Raj Hashua where by the Appellate Tribunal has drawn his attention that the complaint has been made by the petitioner that she was not called for counseling and persons who have obtained lesser marks have been selected but she has been left out and accordingly direction was given to produce the seniority list, counseling register so that transparency can be ascertained. Another letter dated 16.3.2009 was addressed by the Appellate Tribunal to the District Education Officer Ziradei from that letter he has been informed that 11 persons have raised a grievance that they have been illegally deprived from the counseling. Again a letter was written by the Appellate Tribunal dated 21.5.2009 whereby he has stated in that letter that even after five months he has not produced counselor register and other documents which are necessary for making verification. Another letter was dated 22.6.2009 written to the District Panchayat Raj Officer, Siwan whereby and whereunder he has asked that the

following documents such as receipt register, seniority list, counseling list, counseling register and register of selected candidates to be produced before him so that he can take an appropriate action in accordance with law.

4. As it appears that petitioner has filed an application under Right to Information Act to supply her documents and accordingly Secretary-cum-Information Officer has provided the documents as per demand made by her. Ultimately the petitioner has approached to the Appellate Tribunal. There claim has been made that though she has a better marks but purposely her name was not included in the receipt register nor she was called for counseling and illegally she has been kept out of consideration for the post of Panchayat Teacher.

5. The State has produced the original record and has drawn the attention to the portion of the order sheet where in paragraph 12 the Appellate Tribunal has mentioned the letter no.11 dated 10.8.2009 where it has been said that the Appellate Tribunal has received the documents from the Office of the Secretary.

6. This Court has examined the original record. Letter that has been mentioned in paragraph 12 is not on record. One thing is also clear that from the date of filing of her application she is pursuing all through that her name has not been included in the

receipt register and she has illegally been deprived from the counseling though she has better marks than to the persons who have been selected. So much so application has been filed by 11 persons, they have also made similar claim.

7. From the order sheet it appears that the Appellate Tribunal has repeatedly asked the Secretary to produce the record but the Secretary has purposely withheld the record and did not produce the same.

8. This Court is of the view that the Appellate Tribunal has not decided the matter properly rather only on the basis of some materials, has held that petitioner has not applied for the post of Panchayat Teacher whereas receipt that has been attached to this writ petition itself suggest that application was filed by her on 17.11.2008 and why her name was not entered in the receipt register is only known to the person who prepared the list.

9. Accordingly this Court is of the view that it requires fresh consideration. In such view of the matter, the order dated 7.12.2012 passed by the Appellate Tribunal is set aside and matter is remanded back to the Appellate Tribunal for fresh consideration and pass a fresh order in accordance with law.

10. With the aforesaid observations this writ petition is allowed with the direction to the Appellate Tribunal to examine

the case of the petitioner including documents connected with the present case and pass reasoned order.

11. Original record that has been filed by the State is being returned to the learned counsel for the State.

**(Shivaji Pandey, J)**

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