

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10749 of 2011

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Phool Kumari , wife of Rakesh Choudhary, resident of Village-Baikatpur, P.O-Viman, P.S-Ariari, Dist-Sheikhpura, presently working as Panchayat Teacher Upgraded Middle School , Kaimra, Gram Panchayat Raj, Ekrama, Block Chewara, District Sheikhpura

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department , Govt. Of Bihar, Patna
3. The Director , Primary Education Govt. Of Bihar, Patna
4. The District Superintendent Of Education, Sheikhpura District Sheikhpura
5. The District Teacher Employment Appellate Authority Sheikhpura Dist-Sheikhpura
6. The Mukhiya, Gram Panchayat Raj, Ekrama, Block Chewara, District Sheikhpura
7. The Panchayat Secretary, Gram Panchayat Raj Ekrama, Block Chewara District Sheikhpura
8. Renu Das , wife of Sri Sunil Kumar resident of mohalla Katra Chowk Rupani Pokhar Chamar Toli, P.O. and P.S. Sheikhpura, District Sheikhpura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar –Manglam

For the Respondent/s : AC to SC No. 26
Sri Ram Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 10-08-2016

Heard Sri Shashi Bhushan Kumar Manglam, learned counsel for the petitioner , learned AC to SC No. 26 as well as Sri Ram Prasad Singh, learned counsel , who has appeared on behalf of

the respondent no. 8.

The petitioner, has invoked the writ jurisdiction of this court under Article 226 of the Constitution of India , with a prayer to quash an order contained in memo no. 579 dated 21.5.2009 passed by the District Teacher Employment Appellate Authority, Sheikhpura (hereinafter referred to as the “appellate authority”) in Appeal No. 207 of 2009. By the said order on receipt of complaint from the respondent no. 8 the appellate authority disposed of the appeal with a direction to the selection authority to consider the case of the respondent no. 8 and on the basis of her marks she may be accommodated in the merit list at appropriate place.

It is the case of the petitioner that she, pursuant to the advertisement which was published in the year 2008, had applied for being appointed as Pancyhayat Teacher. Thereafter a merit list was prepared vide Annexure -2 to the writ petition. Subsequently in her favour an appointment letter was issued vide memo no. 109 dated 29.12.2010 (Annexure- 3 to the writ petition) and immediately thereafter on the next date she gave joining vide Annexure –‘4’ to the writ petition on 30.12.2010. A plea has been taken that the appellate authority without any notice or without assigning any reason has disposed of the appeal and as such the order is required to be set aside only on the ground that it is violative of the principle of

natural justice.

Learned counsel appearing on behalf of the respondent no. 8 by way of referring to the counter affidavit submits that since in the selection process she got information regarding illegality committed by the selection committee she tried to get specific information from the authority concerned but she failed and thereafter after raising objection she filed a complaint before the appellate authority. The appellate authority issued notice to the selection authority for filing reply but no response was shown and thereafter without any specific direction the appellate authority disposed of the complaint of the respondent no. 8 which was registered as Appeal No. 207 of 2009 with a direction to examine the merit list and in accordance with the marks obtained by the respondent no. 8 her name be included in the merit list. It has further been argued that despite the order of the appellate authority the selection authority i.e. the respondent no. 6 and 7 committed illegality and ignoring the order of the appellate authority as well as ignoring the claim of the respondent no. 8 the selection authority i.e. the respondent no. 6 and 7 issued appointment letter in favour of the petitioner which was obviously issued much after the order of the appellate authority on 29.12.2010. He has argued that on the date of passing order by the appellate authority no right had accrued in



favour of the petitioner nor she was appointed and as such only the complaint of the respondent no. 8 regarding illegality being committed by the selection authority was entertained by the appellate authority and the appeal was disposed of vide Annexure- '8' to the writ petition.

Besides hearing, I have also perused the material available on record. Fact remains that on the date of order passed by the appellate authority the petitioner was not appointed. Her appointment letter was issued much after the order of the appellate authority in the month of December, 2010 whereas the appellate authority had passed order on 21.5.2009. Moreover, the appellate authority had not issued any direction to take away the right of the petitioner due to the reason that on the said date no appointment letter was issued in favour of the petitioner. It appears that instead of verifying the matter or examining / complying the order of the appellate authority the selection authority had issued appointment letter to the petitioner. In normal course I would have directed to conduct enquiry and fix responsibility against the concerned Panchayat Secretary and Mukhiya. However keeping in view the fact that the present matter was filed by the petitioner, I am restraining myself to pass such order. Keeping in view the fact that at the time of passing order by the appellate authority the petitioner was

not appointed and no right had accrued in her favour, there is no reason to interfere with the order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12-08-2016
Transmission Date	N.A.