

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19500 of 2010

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1. Rekha Kumari W/O Shri Akhilesh Kumar Vill. & P.O.- Kewatsa, P.S.- Gaighat,
Distt.- Muzaffarpur
2. Khushbu Kumari W/O Shri Jai Prakash Kumar, D/O Shri Tripuri Kumar R/O
Vill.- Kewatsa, P.O.- Kewatsa, P.S.- Gaighat, Distt.- Muzaffarpur
.... Petitioners

Versus

1. The State Of Bihar
2. The District Magistrate, Muzaffarpur
3. The District Superintendent Of Education, Muzaffarpur
4. Mukhiya, Gram Panchayat Raj Kewatsa P.O.- Kewatsa, P.S.- Gaighat, Distt.-
Muzaffarpur
5. Panchayat Secretary Gram Panchayat Raj Kewatsa, P.O.- Kewatsa, P.S.-
Gaighat, Distt.- Muzaffarpur
6. The District Teacher Employment Appellate Authority, Muzaffarpur through Its
Member
.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh, Adv.
For the Respondent/s : Md. Naushaduzzoha, AC to SC1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 24-11-2016

Heard Mr. Bipin Bihari Singh, learned counsel appearing on
behalf of the petitioners, and Md. Naushaduzzoha, learned AC to SC1
for the State.

With the consent of the parties the writ petition is being
considered with a view to final disposal at the stage of admission
itself.

The two petitioners herein are aggrieved by the order
bearing Memo No. 345 dated 8.11.2010 passed by the District
Teachers Employment Appellate Authority, Muzaffarpur in Objection



Case No. 1816/2009, whereby the appointment of these two petitioners alongwith three others have been held to be illegal and thus, set aside.

According to Mr. Bipin Bihari Singh, learned counsel appearing on behalf of the petitioners, a similar situation had also arisen even earlier when the District Magistrate, Muzaffarpur terminated the services of Panchayat Teachers by holding their initial appointment as Panchayat Shiksha Mitra illegal. One of the teachers, namely, Jai Shankar Das, came before this Court in C.W.J.C.No. 11668/2009 and a Bench of this Court taking note of the statutory provisions underlying Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 (hereinafter referred to as 'the Rules') held the order of the District Magistrate illegal in view of the statutory provisions of Rule 18 of the Rules which vested appellate powers in the appellate authority so constituted under the Rules. The termination order, thus, by virtue of the said writ petition was set aside. However, the Writ Court gave liberty to the District Magistrate, if so advised, to refer the matter to the Tribunal in case he was of the view that the appointment was not in tune with the Rules. According to Mr. Singh, it is in view of the order of this Court, present at Annexure 4, that all the teachers, whose services were terminated as Panchayat Shiksha Mitra, were reinstated in service. He



submits that following the liberty so granted by this Court, that the District Magistrate again referred the matter to the appellate authority for adjudication and which was registered as Objection Case No. 1816/2009 and 78/2010 and these petitioners alongwith three others were shown as applicants when in fact it was on the reference made by the District Magistrate, Muzaffarpur that the matter was being considered. He submits that by the impugned order passed on 8.11.2010 the appellate authority has again held the appointment of these petitioners and three others as Panchayat Shiksha Mitra illegal and while three of the teachers, namely, Hari Shankar Sah, Jai Shankar Das and Md. Zabihullah, came before this Court in C.W.J.C.No. 19519/2010 (Hari Shankar Sah & ors. v. the State of Bihar & ors.), the two petitioners herein have preferred the present writ application. With reference to the judgment of this Court in C.W.J.C.No. 19519/2010 passed in the case of three other Panchayat Teachers, whose services had also been terminated by the order impugned in this writ petition, he submits that the Bench in consideration of the opinion of the Full Bench rendered in the case of **Kalpana Rani v. the State of Bihar**, reported in 2014(2) PLJR 665, has held the order passed by the appellate authority illegal and without jurisdiction and the writ petition has been allowed without back wages.



The submission made by Mr. Singh is that since the same impugned order of the appellate authority, which is put to question in the writ petition herein, was also a subject matter of C.W.J.C.No. 19519/2010, the judgment and order passed in the said case would squarely apply to the present case.

This matter was considered on 19.11.2016 and this Court taking note of the submissions of the learned counsel for the petitioners, placed the matter for necessary orders today affording opportunity to the learned counsel for the State to examine the issue in the light of the submissions made and the learned State Counsel fairly agrees that the judgment and order passed in the case of Hari Shankar Sah (supra) would cover the case of the petitioners as well.

In view of the position so explained above and considering that the order of the appellate authority passed in Objection Case No. 1816/2009 has since been considered and held illegal by a Bench of this Court in the case of Hari Shankar Sah (supra), it is only a completion of formality to quash the order passed by the appellate authority in Objection Case No. 1816/2009 and 78/2010 in so far as the present petitioners are concerned, which is, accordingly, quashed and set aside. As a consequence, the petitioners are reinstated to their post but in view of the order passed by a Bench of this Court in Hari Shankar Sah (supra) I am not persuaded to order for payment of back



wages.

The writ petition is, accordingly, allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.12.2016
Transmission Date	NA

