

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.308 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 17614 of 2010**

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Raju Singh S/O Late Dinesh Singh, Resident Of Village- Saraut, P.O- Bhagar, P.S- Siwan, District- Siwan.

.... Respondent No.8 in the writ petition/ Appellant
Versus

1. The State of Bihar
 2. The Principal Secretary, Department Of Human Resource Development, Government Of Bihar, Patna.
 3. The District Superintendent Of Education, Siwan.
 4. The District Programme Officer, Establishment (Education), Siwan.
 5. The Block Development Officer, Block Siwan, District- Siwan.
 6. The Block Education Officer, Block Siwan, Distt- Siwan.
 7. The Panchayat Secretary, Gram Panchayat Raj Bhagar, Block Siwan, Distt- Siwan
 8. The Mukhiya, Gram Panchayat Raj Bhagar, Block Siwan, Distt- Siwan.
- Respondents 1st set
9. Dharmnath Prasad, Son of Late Nagnarayan @ Narayan Prasad, Resident of Village Bhagar, PO Bhagar, PS Siwan, District Siwan

.... Respondent 2nd Set/Petitioner
/Respondents

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Appearance :

For the Appellant/s : Mr. Rajendra Nath Sinha, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 19-07-2016

The challenge in the present Letters Patent Appeal is to an order dated 16th September, 2013 passed by the learned Single Bench in CWJC No. 17614 of 2010, whereby an order passed by the District Teachers Employment Appellate Authority, Siwan, on 4th September, 2010, was set aside.

The present appellant and one Dharmnath Prasad were the candidates for appointment on the post of Shiksha Mitra. Dharmnath



Prasaad was engaged as Shiksha Mitra vide order dated 15th June, 2005 for a period of 11 months. Such period was extended from 10th June, 2006 for another 11 months. In the meantime, the Bihar Panchayat Primary Teachers (Employment and Conditions of Service) Rules, 2006 came into force. By virtue of the aforesaid Rules, Shiksha Mitra were to be treated as Panchayat Teacher from 1st July, 2006. It is thereafter, the appellant disputed the engagement of Dharmnath Prasad as Shiksha Mitra for the reason that certificates in respect of his educational qualification are forged and fabricated. Such claim was raised before the District Teachers Employment Appellate Authority, which is the competent Authority constituted in respect of disputes raised for Panchayat Teacher and not as Shiksha Mitra.

The learned Single Judge rightly found that the Authority has no jurisdiction to examine the issues relating to appointment of Shiksha Mitra, therefore, the order passed by the Authority is without jurisdiction.

Learned counsel for the appellant has vehemently argued that appointment of Dharmnath Prasad as Shiskha Mitra was on the basis of forged and fabricated certificates of his educational qualification, therefore, even if the Authority has no jurisdiction, but there should not be any interference by this Court in the facts of this case.

We do not find any merit in the argument raised. The

District Teachers Employment Appellate Authority has also not returned any finding that the certificates produced by Dharmnath Prasad are forged and fabricated. It has raised suspicion about the genuineness. But whatever may be the situation, the Authority has no jurisdiction to examine the appointment of Shiksha Mitra after commencement of the Bihar Panchayat Primary Teachers (Employment and Conditions of Service) Rules, 2006. The dispute was raised by the appellant against engagement of Dharmnath Prasad but after he became Panchayat Teacher by operation of the Rules. The dispute regarding educational qualification should have been raised at an appropriate stage and without loss of time.

We find that the learned Single Judge has not committed any irregularity or illegality when the order passed by the learned Authority was set aside on the ground of without jurisdiction.

In view thereof, we do not find any merit in this appeal. The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl.

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21/07/2016
Transmission Date	