

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.314 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 19073 of 2011**

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1. Renu Kumari, Daughter of Bhim Shankar Prasad, Resident of Village- Naughara, Police Station- Chainpur, District- Kaimur at Bhabhua
 2. Arti, Wife of Manoj Kumar, Resident of Village- Sherpur, Jagaria, Police Station- Chainpur, District- Kaimur at Bhabhua
 3. Deomuni Prasad, Son Of Chaturbhuj Ram, Resident of Village Maturna, P.O.- Hata, Police Station- Chainpur, District- Kaimur at Bhabhua
 4. Kumari Sarita Yadav, Daughter of Ram Nath Singh Yadav, Resident of Village- Jagariya, Police Station- Chainpur, District- Kaimur at Bhabhua
 5. Suman Kumari Singh, Daughter of Ram Naresh Pandit, Resident of Village Akhlaapur, Police Station- Bhabhua, District- Kaimur at Bhabhua

.... Appellant/s

Versus

1. The State of Bihar
2. The Commissioner-Cum-Secretary, Human Resources Development Department (Education), Government of Bihar, Patna
3. The Director, Primary and Adult Education Department, Government Of Bihar, Patna
4. The Deputy Development Commissioner, Kaimur (Bhabhua)
5. The District Magistrate, Kaimur (Bhabhua)
6. The District Education Officer, Kaimur (Bhabhua)
7. The District Superintendent of Education Cum Sub Divisional Education Officer, Kaimur, (Bhabhua)
8. The Block Development Officer, Chainpur, District- Kaimur (Bhabhua)
9. The Gram Panchayat, Udayrampur Block- Chainpur, District- Kaimur (Bhabhua), Through Panchayat Secretary
10. The Mukhiya Gram Panchayat Block- Chainpur, Police Station- Chainpur District- Kaimur (Bhabhua)
11. The Panchayat Secretary, Gram Panchayat, Udayrampur, Block- Chainpur, Police Station- Chainpur, District- Kaimur (Bhabhua)
12. Arundhati Devi, Wife Of Sri Akhilesh Kumar, Resident Of Village- Rupapatti, Police Station- Chainpur, District- Kaimur (Bhabhua)
13. Baidehi Kumari, Daughter of Sri Haldhar Tripathi, Resident Of Mohalla- Ward No. 1, Police Station- Bhabhua, District- Kaimur (Bhabhua)
14. Usha Devi, Wife Of Manoj Kumar, Daughter Of Ramesh Paswan, Resident Of Village- Dumri, Block Sheonagar, Police Station- Sheonagar, District- Rohtash
15. Md. Sariful Hasan, S/O Azimuddin, Resident Of Village- Mukeriya, P.S. Kadwa District- Katihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chitranjan Sinha, Sr. Advocate
For the State : Mr. Jay Prakash Sharma, AC to GP XXI
For Respondent Nos. 12,
13 and 14 : Mr. Mukul Sinha, Mr. Rajesh Kumar

Mr. Deep Anshuman

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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: 16-08-2016

The challenge in the present Letters Patent Appeal is to an order dated 30th October, 2013 passed by the learned Single Bench of this Court in CWJC No. 19073 of 2011, whereby challenge to the order dated 18.08.2011 passed by the District Teachers Employment Appellate Tribunal, Kaimur, Bhabua, remained unsuccessful.

Gram Panchayat Udairampur, Chainpur in the district of Kaimur, Bhabua invited applications for appointment to the post of Panchyat Shikshak. The appellants as well as respondent nos. 12, 13 and 14 were the candidates. It was respondent nos. 12, 13 and 14 who were appointed as Panchayat Teachers along with other candidates.

There was a complaint made against the selection of the candidates on the basis of which the District Magistrate, Kaimur (Bhabua) constituted a Committee on 02.07.2007 to enquire into the allegations. The Committee found merit in the allegations and set aside the appointments in pursuance of such report of the committee. There was fresh interview and the appellants were selected. It is on the basis of such selection, the appellants claim the right of appointment.



The learned Tribunal set aside the order passed by the District Magistrate on the ground that the District Magistrate has no jurisdiction to enquire into the allegation in respect of appointment of Panchayat Shikshak as the Block Development Officer was the competent authority in terms of the Bihar Panchayat Primary Teachers (Employment & Service Conditions) Rules, 2006. The very constitution of the Committee by the District Magistrate was found to be untenable. Consequently, the subsequent selection on the basis of report of such Committee appointed by the District Magistrate was vitiated. It is the said order which has been challenged by the appellants before the learned Single Bench which remained unsuccessful.

Learned counsel for the appellants vehemently argued that respondent nos. 12, 13 and 14 participated in the fresh selection process in terms of report of the Committee constituted by the District Magistrate, therefore, they are estopped to dispute the selection process.

The argument *prima facie* seems attractive, but on scrutiny, cannot be said to be sustainable for the reason that the very process of selection undertaken in which the appellants were shortlisted for appointment was on the basis of the report of a Committee constituted by the District Magistrate, when the District Magistrate was not the

authority under the Rules to examine the legality or validity of the appointment. Once the constitution of the Committee itself is illegal, any of the process undertaken in pursuance of such illegal order will not confer semblance of any selection process.

In that view of the matter, we do not find any merit in the present Letters Patent Appeal. The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl

AFR/NAFR	NAFR
CAV DATE	N.A.
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