

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.856 of 2017
IN
Civil Writ Jurisdiction Case No. 4841 of 2013**

- =====
1. Md. Azaz,
 2. Md. Aliyas @ Md. Eliyas, both Sons Of Md. Musa, Resident Of Village- Amodei, P.S.- Ramgarhwa, District- East Champaran.
 3. Emrana Khatoon, Daughter Of Abdul Hakim, Resident Of Village- Amodei, P.S.- Ramgarhwa, District- East Champaran.
 4. Preetilata Kumari, Wife Of Akhilesh Kumar Prasad, Resident Of Village- Uchidih, P.S.- Ramgarhwa, District- East Champaran.
 5. Kiran Kumari, Daughter Of Late Sanu Ram, Resident Of Village- Bandhi Barwa, P.S.- Ramgarhwa, District- East Champaran.
 6. Nitu Kumari, Daughter Of Krishna Prasad, Resident Of Village- Amodei Sobha Tola, P.S.- Ramgarhwa, District- East Champaran.
 7. Arese Alam, Son Of Late Md. Alam, Resident Of Village- Amodei, P.S.- Ramgarhwa, District- East Champaran.

.... Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Patna.
2. The District Magistrate, East Champaran at Motihari.
3. The Block Development Officer Block- Ramgarhwa, District- East Champaran.
4. The Block Education Officer Block Ramgarhwa, District- East Champaran.
5. The Mukhiya-Cum-Chairman, Panchayat Niyojan Samiti, Gram Panchayat Raj, Amodei Block, Ramgarhwa, District- East Champaran.
6. The Panchayat Secretary, Gram Panchayat Raj Amodei Block, Ramgarhwa, District- East Champaran.
7. The Member, District Teacher Employment Appellate Tribunal, District- East Champaran, Motihari.
8. Md. Alam, Son Of Md. Habib, Resident Of Village- Narirgir, P.O. & P.S.- Ramgarhwa, District- East Champaran.
9. Abdul Rahman, Son Of Late Md. Mojahir Hussain, Resident Of Village- Narirgir, P.O. & P.S.- Ramgarhwa, District- East Champaran.



10. Abdul Latif, Son Of Abdul Rauf, Resident Of Village- Hata Baksa, P.O. & P.S.- Ramgarhwa, District- East Champaran.
11. Guddi Kumari, Wife Of Fanindar Mahto, Resident Of Village & P.O.- Raghunathpur, P.S.- Ramgarhwa, District- East Champaran.
12. Kiran Kumari, Wife Of Devanand Sharma, Resident Of Village, P.O. & P.S.- Ramgarhwa, District- East Champaran.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Ravi Kumar Singh, Advocate
Mr. Virendra Kumar, Advocate

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY)

Date: 13-09-2017

I.A. No. 5169 of 2017:

The interlocutory application has been filed for condonation of delay of 3 years 56 days in filing the present letters patent appeal.

Although the explanation in the application for condonation of delay is most casual and apologetic, yet we condone the delay in order to decide the present Letters Patent Appeal on merit.

I.A. No. 5169 of 2017 is accordingly disposed of.

LPA No. 856 of 2016

The instant Letters Patent Appeal has been filed by



the appellants against the order of the Writ Court dated 21.2.2014 passed in CWJC No. 4841 of 2013.

CWJC No. 4841 of 2013 was filed by seven petitioners against the findings recorded by the District Teachers Employment Appellate Authority, East Champaran dated 4.12.2012 (for short, 'the appellate authority') in case No. 195 of 2008. The appellate authority on perusal of the records has arrived at a finding that the Chairman and Secretary of the employment Unit has prepared a forged counselling list and proceeding register and on that basis appointment of the respondent Nos. 2 to 8 have been made as they were blue eyed and favourite of the Chairman and Secretary of the employment unit despite having less merit, they have been favoured with the employment.

The appellate authority on consideration of the entire record held out that there was hanky panky in the preparation of the merit list and the proceeding register and as such the appellate authority directed the employment unit to convene the meeting of the Panchayat Niroyajan Samiti afresh within 30 days and prepare a fresh merit list and conduct counselling afresh after giving notice of the date of counselling on the notice board of the Panchayat Building and news to that



effect should be published in the daily Hindustan and Prabhat Khabar one week ahead the counselling and other directions were issued by the appellate authority in order to ensure fair counselling.

The writ court noticing the radical change in the process of selection of Panchayat Shikshak, although accepted the finding of the appellate authority that the entire exercise of preparation of merit list was a fraudulent exercise, issued direction for following new procedure of appointment initiated in 3rd phase.

Mr. Rajendra Prasad Singh, Sr. Advocate appearing on behalf of the appellants has submitted that the merit list was properly prepared after counselling in accordance with the guidelines of the Human Resources Development Department and appointments were made but the appellate authority as well as the Writ court have committed error in interfering with the selection. He submitted that in the counselling 36 candidates appeared and out of which the petitioners-appellants were appointed. He submitted that certain candidate above in the merit list did not appear in the counselling on account of the fact that they appeared in the counselling in other Panchayats and as such he submitted that the appellate authority has wrongly held out



that there was manipulation and favouritism with the counselling and appointment of the appellants herein. He submitted that the writ court has committed illegality in not exercising jurisdiction and refused to interfere with the finding of the appellate authority.

Mr. Singh submitted that in fact counselling was done on 28.2.2009 as per the schedule of counselling and affidavit to that effect was filed before the appellate authority by the Panchayat Secretary but the appellate authority relied upon memo no. 136 dated 28.2.2009 issued by the BEO, Ramgarhwa and memo no. 164 dated 4.6.2009 issued by the DSE, Motihari to the Director wherein information was furnished that no counselling was done on 28.2.2009. He submitted that the appellate authority erred in disbelieving the affidavit of the Respondent-Secretary who was directly connected with the affairs of employment unit and as such the decision of the appellate authority is illegal and contrary to the record.

We have gone through the order of the writ court and order of the appellate authority, as contained in Annexure-10 of the writ application and we find no infirmity in the order of the appellate authority which is a well considered and well reasoned decision. The writ court has considered the subsequent



development and radical change in the procedure of selection of Panchayat Teacher and as such we find no error in the order of the writ court modifying the decision of the appellate authority, whereby the writ petition in view of the subsequent development and introduction of new procedure of appointment initiated in 3rd phase directed to fill up all the vacancies in accordance with law as it prevails today.

Accordingly, the Letters Patent Appeal is dismissed and the order of the writ court stands approved.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2017
Transmission Date	

