

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1748 of 2016

In
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, District- Sheikhpura, presently working as
Panchayat Teacher, Upgraded Middle School, Kaimra, Gram Panchayat
Raj, Ekrama, Block- Chewara, District- Sheikhpura.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Superintendent of Education, Sheikhpura, District-
Sheikhpura.
5. The District Teacher Employment Appellate Authority, Sheikhpura,
District- Sheikhpura.
6. The Mukhiya, Gram Panchayat Raj, Ekrama, Block- Chewara, District-
Sheikhpura. null null
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 Appellant/s : Mr. Ashok Kumar Singh, Sr. Advocate and
Mr. Anil Kumar Singh, Advocate.

For the Respondents-State: Mr. Manoj Kr. Ambastha, SC 26 &
Mr. Subodh Kumar, AC to SC 26.

For the Respondent no.8: Mr. Satish Kumar, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)



9 17-04-2017 Having heard learned counsels for the parties, we find that by filing I.A. No. 588 of 2017, an order passed by the Block Development Officer-cum-Member Secretary, Block Teachers Employment Unit, Chewara on 07.12.2016 (Annexure 'P/7') is proposed to be challenged. This order has been passed by the authority in pursuance to certain action taken by him. According to the petitioner, because of certain facts the Writ Petition had itself become infructuous. No action was required to be taken in pursuance to the order passed in the Writ Petition but by illegally assuming power the authority has passed this order and, therefore, the petitioner is challenging this order also by filing I.A. No. 588 of 2017.

We are of the considered view that the order dated 07.12.2016 now challenged by the petitioner vide I.A. No. 588/2017 is not permissible, the cause of action to the petitioner on this count arose after the Writ Petition was decided and is based on the facts that have been pleaded in I.A. No. 588 of 2017, as such liberty is always available to the petitioner to challenge this action afresh before the Writ Court. Accordingly, now in view of this development we grant liberty to the petitioner to challenge the order (Annexure 'P/7') dated 07.12.2016 and while doing so demonstrate and plead all the averments that have been made in



I.A. No. 588 of 2017 and it will be for the Writ Court where such challenge to the order dated 07.12.2016 (Annexure 'P/7') is to be made in accordance with law.

With the aforesaid liberty to the petitioner, we dispose of the appeal for the present.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Dilip, AR

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