

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6681 of 2016

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1. Rabia Khatoon, D/o Mohiuddin Ahmad, Panchayat Teacher, Primary School, Murdpur, Gram Panchayat-Karsaon, Block- Obra, P.S.- Fesar, District- Aurangabad.
 2. Yugal Kishor, Son of Late Bhikhar Prasad, Panchayat Teacher, Primary School, Rupkhap, Gram Panchayat-Karsaon, Block- Obra, P.S.- Fesar, District- Aurangabad.
 3. Ram Kumar Singh, S/o Sri Ram Swaroop Singh, Panchayat Teacher, Primary School, Mahatha, Gram Panchayat- Karsaon, Block- Obra, P.S.- Fesar, District- Aurangabad.
 4. Md. Arsad Ansari, S/o Late Ahsan Ansari, Panchayat Teacher, Primary School, Hussainabad, Gram Panchayat- Karsaon, Block- Obra, P.S.- Fesar, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Teachers Appointment Appellate Tribunal, Aurangabad, District- Aurangabad through its Member.
3. The District Programme Officer-cum- District Education Officer, Aurangabad.
4. The Block Development Officer, Obra, District- Aurangabad.
5. The Panchayat Secretary, Gram Panchayat Karsaon, P.S. Karsaon, District- Aurangabad.
6. The Mukhiya, Gram Panchayat Karsaon, P.S. Karsaon, District- Aurangabad.
7. Mohan Thakur, S/o- Ganesh Thakur, Resident of village + P.O.- Arai, P.S.- Daudnagar, District- Aurangabad.
8. Asha Kumari D/o Sanjay Bhagat, Karma Road, P.S. + District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Mr. Sita Ram Prasad and Mr. Anjani Kumar, Advocates
For the Respondent No. 6	:	Mr. Helal Ahmad, Advocate
For the State	:	Mr. Sunil Kumar Mandal, S.C. 3 Mr. Bipin Kumar, A.C. to S.C. 3

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 23-11-2017

Heard learned counsel for the petitioners; State and
respondent no. 6.

2. Despite valid service of notice on respondents no. 5, 7



and 8, nobody has appeared on their behalf when the case was taken up and heard.

3. The petitioners have moved the Court for the following reliefs:

“That this application is being filed for quashing of the order dated 14/3/2016 passed in Appeal No. 118 of 2011 and Appeal No. 367 of 2011 by the District Appellate Authority, Aurangabad by which the District Appellate Committee has held that the Employment Committee of Karsaon Gram Panchayat in Block-Obra, District- Aurangabad has committed serious irregularity and ultimately he has quashed the all appointments made by the said Employment Committee and has directed to take necessary steps for employment observing procedure prescribed, by issuing an appropriate writ and further directing the Respondents Nos. 5 & 6 not to remove the petitioners from the post of Panchayat Teacher”.

4. In essence, the grievance is that the District Teachers Employment Appellate Authority, Aurangabad (hereinafter referred to as the ‘Authority’), has held their appointment to be illegal only on the ground that the respondents no. 7 and 8 having higher merit were not informed of the date fixed for counselling.

5. Learned counsel for the petitioners submitted that the date for counselling was fixed by the Department itself which was published in the newspaper. It was submitted that on that day, i.e., 28.02.2009, the petitioners had appeared in the counselling.



However, subsequently also date was fixed i.e., 13.08.2010 and 14.08.2010 in which also the petitioners had appeared, but respondents no. 7 and 8 had not appeared in any of the counselling. It was further submitted that there is documentary evidence to indicate that the respondent no. 7 had appeared for counselling at another Panchayat on the same day. Learned counsel submitted that the reason why the Authority has interfered is that there was no proof of communication of the date fixed for counselling, to the respondents no. 7 and 8.

6. Learned counsel for the State is not in a position to controvert the fact that the date for counselling was published in the newspaper.

7. Learned counsel for the respondent no. 6 submitted that the counselling, which was in terms of the date fixed by the Department and published in the newspaper, the petitioners had appeared and the respondents no. 7 and 8 had not appeared.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds the order impugned to be unsustainable. When the admitted position is that twice the date for counselling was fixed, which was also published in the newspaper by the Department, and the petitioners having appeared in such counselling, and also the



admitted position being that the respondents no. 7 and 8 did not appear, the ground for interfering just because they had higher marks and that there was no proof to indicate that they were aware of the dates fixed, is untenable. Publication in the newspaper is notice to all and, further, just because a person has a higher merit, his case cannot be *suo motu* considered unless he fulfills the requirement of appearing before the Selection Committee on the date fixed for counselling. In the present case, admittedly the respondents no. 7 and 8 never appeared for counselling.

9. Accordingly, the order impugned dated 14.03.2016 passed in Appeals No. 118 of 2011 and 367 of 2011, by the Authority stands quashed. The petitioners shall be deemed to have been continuing on their post right from the date they were appointed uninterruptedly and shall also be entitled to all consequential benefits.

10. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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