

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1049 of 2014
IN
Civil Writ Jurisdiction Case No. 20963 of 2011**

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Rakesh Kumar Singh S/o Sri Nathuni Singh, resident of village- Ranna, P.O- Ranna,
P.S- Hathori, District- Samastipur

..... Appellant

Versus

1. The State of Bihar.
2. The District Teachers Employment Appellate Authority, Samastipur.
3. The Principal Secretary, Human Resources Development Department Bihar, Patna.
4. The Director, Primary Education, Bihar, Patna.
5. The Director Panchayati Raj Bihar, Patna.
6. The District Magistrate, Samastipur.
7. The Block Education Officer, Shivaji Nagar (Samastipur.)
8. The District Panchayati Raj Officer, Samastipur.
9. The District Superintendent of Education, Samastipur.
10. Mukhiya, Gram Panchayat Rahtoli, Samastipur.
11. Panchayat Secretary, Gram Panchayat Rahtoli, Samastipur.
12. Sharwan Kumar Singh S/o Sri Nakhu Prasad Singh, resident of village -
Bhatora, P.O- Bhatora, P.S- Hathori, District- Samastipur.

.... Respondents

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Appearance :

For the Appellant : Mr. Bindhyachal Singh, Advocate
Mr. Krishna Kumar Singh, Advocate
For the Respondent No.12: Mr. Rajendra Kumar Jain, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 25-04-2017

Heard learned counsel for the appellant, learned counsel
for the State and learned counsel for respondent No.12.

The impugned order is dated 02.04.2014. The writ
application of the private respondent No.12 was allowed. The
appointment of the present appellant was set aside and a direction
was issued by the learned single Judge for holding of a fresh



counselling and appointment. We are informed by the learned counsel for the private respondent that counselling has been held and one Mr. Sanjesh Kumar has been selected, but that selection is also a subject matter of dispute before the Teachers Employment Appellate Authority.

No doubt, the appellant was appointed on the post of a Panchayat Teacher against a vacancy caused due to death of one Satya Narain Singh, who was a trained teacher. This vacancy was directed to be filled up by the District Superintendent of Education. A direction was issued to the Block Education Officer, who in turn advised the Mukhiya of the Gram Panchayat to do the needful. The Mukhiya appointed the appellant on the basis of the panel prepared in the year 2009 which became the bone of contention. The learned single Judge by taking note of series of decisions of the Hon'ble Apex Court has applied the principle that once the appointment process is completed and vacancies are filled up, the panel from which the appointments are made lapses or loses its validity.

In the present case, the appointment of the previous incumbent, namely, Satya Narain Singh, and others made the panel invalid, therefore, there was no occasion to appoint the present appellant from the said panel. Even otherwise, the learned single Judge has taken note of the fact there was no direction issued by the



District Superintendent of Education to the subordinates to make appointments on the basis of the previous panel. There was a direction for holding of a fresh counselling which was not complied with and, therefore, the appointment of the appellant was held to be invalid and a fresh direction was issued for holding of a fresh counselling, which has now been done in terms of the direction of the learned single Judge.

The learned single Judge has committed no error of law or fact by holding that the appointment of the appellant from the old panel of 2009 was an invalid exercise and, therefore, the appointment of the appellant was rightly struck down.

There is no merit in this appeal. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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