

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1181 of 2014
IN
Civil Writ Jurisdiction Case No. 6054 of 2012**

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Pratima Kumari, Panchayat Teacher, Primary School Namapur Sadhi W/O Rajnish Kumar Resident of Village - Namapur, P.O. - Sormar Bagala, P.S. - Chakmehasi, District - Samastipur.

.... Appellant

Versus

1. The State of Bihar.
2. The District Teacher Employment Appellate Tribunal Samastipur through its Chairman.
3. The District Programming Officer, Samastipur.
4. The Block Education Officer, Block - Kalyanpur, District - Samastipur.
5. The Panchayat Secretary Gram Panchayat Raj Namapur, Block Kalyanpur, District - Samastipur.
6. The Mukhiya, Gram Panchayat Raj Village - Namapur Block - Kalyanpur, District - Samastipur.
7. Manisha Kumari W/o Shyam Kumar Resident of Village - Rampur, P.S. - Moro, District - Darbhanga.

.... Respondents

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Appearance :

For the Appellant : Mr. Mrityunjay Kumar, Advocate
For the Respondent State: Mr. Rakesh Kumar Shrivastava, AC to GP-15
For the Respondent No.7: Mr. Srinivas Jha, 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: 19-04-2017

The writ application of the private respondent No.7 was allowed by the learned single Judge vide order dated 14.07.2014.

The appointment of the present appellant on the post of Panchayat Teacher was annulled and a direction was issued to appoint the private respondent, Manisha Kumari, on the post of Panchayat Teacher.



The learned single Judge has taken note of the facts and given the reasons for allowing the writ application in following words: -

“The reason explained by the Tribunal is that the petitioner’s certificate could not be got verified as the documents (OTR) were seized and no appointment could be made after 30.12.2010. This court is of the view that reasoning adopted by the appointment committee as well as the Tribunal is wholly perverse. There is no finding till date that the certificates which the petitioner presented in support of her eligibility and qualification have been found to be ingenuine or forged. The petitioner could not be blamed for non verification of the documents submitted by her which exercise was to be completed by the respondents. If they could not complete the said exercise within the time prescribed for issuance of the appointment letter, the petitioner cannot be allowed to suffer. The petitioner has admittedly more marks than respondent No.7. She had, therefore, better right than respondent No.7 to be appointed on that ground. Her appointment could not be withheld or altogether denied by appointing someone else with inferior merit, on that ground.

In the counter affidavit filed on behalf of respondent No.5, the same plea has



been taken that since verification of documents of the petitioner could not be done prior to 30.12.2010, which was the last date fixed for issuance of the appointment letter, she was validly not appointed.

As noted above, I have held this reasoning to be wholly perverse. I, accordingly, set aside the impugned order dated 11.10.2011 passed by the District Teacher Employment Appellate Tribunal, Samastipur in Appeal No. 1244 of 2010. I also set aside the appointment of respondent No.7 as Panchayat Teacher of Gram Panchayat village Namapur. I, accordingly, direct the respondents Nos. 4, 5 and 6 to appoint the petitioner as Panchayat Teacher after verification of her documents. In the event there is any doubt about the petitioner's documents, she will be provisionally appointed, which will be subject to verification of the documents by the competent authority or the Examination Board. The respondents No. 5 and 6 will also be required to ensure that the petitioner gets her regular salary."

In the opinion of this Court not allowing the writ application of the private respondent would have caused great injustice to her as admittedly she was the most meritorious candidate and only on a spurious ground that her certificates could not be



verified that she was not granted the benefit of appointment. The question was has anybody seriously doubted the authenticity of the marks-sheet of matriculation as well as intermediate produced by the private respondent in the very first place? This aspect was not considered by the Tribunal and, therefore, the learned single Judge was correct in rectifying that mistake by allowing the writ application.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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