

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.195 of 2016

In

Civil Writ Jurisdiction Case No.971 of 2013

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Annu Sharma Wife of Birendra Kumar Sharma, Resident of Madhopur P.S. Anjanakot, P.S. - Motipur, District - Muzaffarpur, presently posted as Panchayat Teacher in Primary School, Madhopur, District - Muzaffarpur.

... ... Appellant

Versus

1. The State of Bihar
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, District - Muzaffarpur.
4. The Member District Teacher Appellant Authority, Muzaffarpur.
5. The District Education Officer, Muzaffarpur, District - Muzaffarpur.
6. The District Programme Officer, Muzaffarpur, District - Muzaffarpur.
7. The Block Development Officer, Motipur, District - Muzaffarpur.
8. The Mukhiya Gram Panchayat Raj, Bariyarpur (East), P.S. - Motipur, District - Muzaffarpur.
9. The Panchayat Secretary, Gram Panchayat Raj, Bariyarpur (East), P.S. - Motipur, District - Muzaffarpur.
10. Kumkum Kumari, W/o Shiva Choudhary, Resident of Village + P.O. - Anjanakot, P.S. - Motipur, District - Muzaffarpur.
11. Tabasum jahan, D/o Md. Anwar,
12. Saista Praveen, D/o Atta Hussain, Respondent No. 11 and 12 are resident of village + P.O. + P.S. - Motipur, District - Muzaffarpur.

... ... Respondents

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Appearance :

For the Appellant	:	Mr. Aditya Narayan Singh, Advocate
		Mr. Shashi Bhushan Singh, Advocate
For the Respondent State:		Mr. Birju Prasasd, GP-13
For the Respondent No.11:		Mr. Krishna Kant Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 29-11-2017

Heard learned counsel for the appellant, counsel for the State and the counsel for the private respondent.

A very detailed and patient hearing has been given to the learned counsel appearing for the appellant, but certain facts which



are too glaring and have been taken note of by the learned single Judge while dealing with the issue of validity of appointment of the present appellant as a Panchayat Teacher has been crystallized in paragraph 25 of the learned single Judge's order, which reads as under :

“25. From the reading of the aforementioned provision of Rule 9 of the Rules and the finding recorded by the Tribunal as already quoted above, it becomes more than clear that:-

(i) The three out of five members of the Panel Preparation Committee, namely, Mukhia, the nominated member of Education Committee of Panchayat and the nominated member of Education Department vide Rule 9(vii)(kha)(i)(ii) and (iv) had never participated in the process of selection.

(ii) The entire so called selection was made by two members of the Panel Preparation Committee namely Panchayat Sachiv and one member of Panchayat.

(iii) No meeting of the panel preparation Committee in terms of Rule-9(vii) of the Rules had been ever convened and held.

(iv) The draft merit list in terms of Rule 9(v) of the Rules was never prepared.

(v) No objections were also invited in terms of Rule 9(viii) for finalisation of Draft Merit List.

(vi) The final prepared panel was also not published.

(vii) The process of counselling was also not conducted by firstly segregating trained candidates from the untrained candidates and in fact the entire records of counselling was tampered by also making effort to insert the name of Up-Mukhiya, namely, Gyan



Chandra Mahato between the name of Anita Devi, member of the Panchayat, who had presided the meeting of the panel preparation committee and the Panchayat Secretary.

(viii) The counselling was also not made as per the alleged merit list and thus led to selection and appointment of candidates having much inferior merit including the petitioner at Serial No. 68 in the merit list of 77 persons as also one Anita Kumari, whose name was not even included in the so called merit list/panel.

(ix) The decision taken in the resolution no. 4 dated 22.12.2006, of the meeting attended by Panchayat Secretary and a member of Panchayat for obtaining instruction from the higher authorities as with regard to filling up the post of teacher of the Extremely Backward Female Category as also the reserved female and Scheduled Caste category was also surreptitiously ignored by all of a sudden selecting the petitioner and Smt. Mala Kumari as also one Anita Kumari for their appointment by making interpolation in the proceedings dated 28.12.2006.”

In addition to the above, the fact is that the petitioner has procured a so-called degree from an institution which is not an educational institution. It neither holds classes nor conducts examination but only sells degrees to the people who are willing to pay. We are talking about an institution known as ‘Deoghar Hindi Vidyapeeth’.

The status of such institution and the validity of the degree, which the appellant has, has been dealt with by this Court very extensively in the case of *Reeta Srivastava vs. The State of Bihar*



through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna and Others, reported in **2012 (3) PLJR 353**. This judgment of the single Judge has been upheld by the Division Bench as well as by the Hon'ble Apex Court.

This Court is very sensitive to one aspect of the matter that any person who wants to become a teacher, on whose teaching the future of next generation is dependent upon, must have a valid degree in his/her favour in the first place if not the knowledge which goes with the valid degree with it.

Since the degree on which the appellant had obtained employment also has no validity in the eye of law. This is also good ground not to interfere with the order of the learned single Judge who has gone through the issue in rather detail taking various facets of the issue raised in the writ application.

Appeal has no merit. It is dismissed. The interim order of stay stands vacated.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

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