

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1149 of 2014
IN
Civil Writ Jurisdiction Case No. 4788 of 2011**

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Pankaj Kumar Sah @ Pankaj Kr. Sah S/o Shri Ganesh Sah R/o Village - Majhaulia,
P.O. - Adalpur, P.S. - Janadaha, Dist. - Vaishali.

.... Appellant/s

Versus

1. The State of Bihar through its Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Patna.
2. The Director, Primary Education (Human Resources Development Department), Government of Bihar, New Secretariat, Patna.
3. The District Magistrate, Vaishali at Hajipur.
4. The Secretary, Teacher Appointment Appellate Authority, Vaishali at Hajipur.
5. The District Superintendent of Education, Vaishali at Hajipur.
6. The Block Development Officer, Lalganj Block, Dist. Vaishali.
7. The Block Education Extension Officer, Lalganj Block, Dist. - Vaishali.
8. The Panchayat Secretary, Gram Panchayat Raj Rikhar, Block - Lalganj, Dist. - Vaishali.
9. The Mukhiya, Gram Panchayat Raj at Rikhar, Block - Lalganj, Dist. - Vaishali.
10. The Headmaster, Rajkiya Primary School, Kaleshar Block, Lalganj, Dist.- Vaishali.
11. Shashi Bhushan Singh S/o Ram Sewak Singh R/o Madhopur, P.O. - Chandrahati, Dist. - Vaishali.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manish Chandra Gandhi

For the Respondent/s : Mr. GP30- Raju Giri

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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: 18-04-2017

Heard learned counsels for the parties.

Writ application of the appellant was dismissed on
17.02.2014 by the Learned Single Judge, refusing to interfere with
the order of the District Teachers Employment Appellate Tribunal,
which had found the appointment of the appellant as a Panchayat



Teacher at the cost of the private-respondent to be illegal as well as in violation of the laid down procedure for such appointment. The private-respondent, who had higher marks and better merit with 64.22 per cent was deliberately not allowed to participate in the counseling and showing that he had not participated in the counseling the appellant came to be appointed with 55.88 per cent marks. The Tribunal had given a direction to the Panchayat to conduct another round of counseling for the private-respondent, but again no proper information was again given for the counseling and a plea was taken that notice was sent by Under Postal Certificate (UPC), which has been declared by this High Court to be no notice in the eye of law.

Taking the entirety of the dispute and the findings, the Learned Single Judge refused to interfere with the order of the Tribunal, dated 22.01.2011 and dismissed the writ application. Therefore, the appeal.

With certain vehemence counsel for the appellant submits that he has been seriously prejudiced by the order of the Tribunal, which was passed without giving him an opportunity of hearing or any notice to him. Therefore, the impugned order of the Tribunal as well as the Learned Single Judge should be set to knot and both the orders deserve to be quashed.

The Court fails to understand the basis for taking such a plea. In the order of the District Teachers Employment Appellate Tribunal, in paragraph 3, it is specifically stated



that a show-cause was filed in the Tribunal on behalf of the appellant, which was also placed on record and considered.

This Court has had occasion to deal with one too many cases of appointment as Panchayat Teachers by Panchayats, where people with higher merit and marks are shown not to have come and participated in counseling and persons with lesser merit and lesser marks are appointed. The pattern is too familiar and repeated in one too many cases.

In such cases, the only remedy would be to set aside such appointment and ensure that the meritorious persons are given the opportunity of such appointment, who are deliberately shown to have not participated in the process of counseling.

Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
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