

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1137 of 2013

In
Civil Writ Jurisdiction Case No.17359 of 2009

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Ramjay Manjhi, Son of Moti Manjhi, Resident of Village Salarpur, P.O.-
Makhdumpur, P.S.- Wazirganj, Distt.- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate, Gaya
3. The District Superintendent of Education, Gaya
4. The Block Development Officer, Tankupa, Gaya
5. The Block Education Officer, Tankupa, Gaya
6. The Panchayat Secretary, Gram Panchayat, Barsauna, Tankupa, Gaya
7. The Panchayat Mukhiya, Panchayat Barsauna, Tankupa, Gaya
8. Ramprevesh Yadav, Son of Yamuna Yadav, Resident of Village- Akurhnwa,
P.O.- Makhdumpur, Gram Panchayat, Barsauna, Tankupa, Gaya
9. Ashok Kumar, Panchayat Teacher, Beldar Bigha, Panchayat Barsauna,
Tankupa, Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dinu Kumar, Advocate
For the Respondent/s : Mr. A.R. Pandey, AAG-15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-11-2017

Having heard learned counsel for the parties, we find that the impugned action has been taken by the District Magistrate, Gaya vide order passed on 14th of August, 2009 and the consequent termination made by the Panchayat on 16.09.2009. Admittedly after coming into force of the Bihar Zila Parishad Madhyamik and Uchcha Madhyamik Shiksha (Niyojan Evam Seva Sheriteyn) Niyamavali, 2006 and even prior thereto



the District Magistrate, Gaya under the statute has no authority to take any action in the matter. As appointments in question were made prior to 2006, the issue has to be decided in accordance to the unamended rule and prior to this amendment which was brought into force on 07.07.2009 the Block Development Officer was the competent authority to deal with the issue. Merely because in an earlier writ petition C.W.J.C. No. 11249 of 2006 the District Magistrate was directed by the learned Single Bench to look into the matter, the District Magistrate could not act when he had no authority under law to take a decision in the matter.

Keeping in view the aforesaid, we allow this appeal, quash the order dated 08.05.2013 passed by the learned Writ Court in C.W.J.C. No. 17359 of 2009 and the consequential order passed by the District Magistrate vide Annexure-4 on 14th of August, 2009 as also the order dated 16.09.2009 (Annexure-5) passed by the Gram Panchayat and remand the matter back to the District Teachers Appointment Appellate Authority to consider the question of appointment of the appellant and take a decision in accordance with law. The decision be taken within a period of three months from the date of receipt of a certified copy of this order. The Tribunal shall issue notice to all



concerned who are required to be heard under law.

With the aforesaid, the Letters Patent Appeal stands
allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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