

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1631 of 2015
IN
Civil Writ Jurisdiction Case No. 22183 of 2011**

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Md. Wasi Akhtar S/o Manzoor Alam, Resident of Village - Tiligura, P.S. - Kocha Dhaman, District - Kishanganj.

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary Department of Human Resource Development, Government of Bihar, Patna
2. The Collector of District Kishanganj
3. The District Superintendent of Education cum District Education Programme Officer, District - Kishanganj
4. The Block Education Officer Kochdhaman Block, District- Kishanganj
5. The Block Development Officer, Kocha Dhaman, District- Kishanganj
6. The Panchayat Secretary of Gram Panchayat Patkoikala under Kochadhaman Block, District- Kishanganj
7. The Mukhiya of Gram Panchayat Patkoi Kala, Kocha Dhaman Block, District- Kishanganj
8. The Member, District Teacher Appointment Appellate Tribunal, Kishanganj, District - Kishanganj
9. Shah Afroz S/O Late Abu Sayeed R/O Village- Birwa, P.S.- Kochadhaman, District- Kishanganj

.... Respondents

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Appearance :

For the Appellant : Mr. Rajendra Prasad Singh, Senior Advocate
Mr. Rajeev Kumar Singh, Advocate
Mr. Nirala Kumar Singh, Advocate
For the Respondent State: Mr. Virendra Kuar, AC to SC-13

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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: 17-01-2017

Delay of 124 days is condoned. I.A. No. 7409 of 2015 is allowed.

The appellant was respondent No.9 in the writ application. The private respondent No.9 was the petitioner in C.W.J.C. No. 22183 of 2011. He filed the writ application because



his appointment as Panchayat Shiksha Mitra was seriously contested by the appellant and he tried to demonstrate before the competent authority as to the illegality in such engagement and continuance. In this regard, letter No.06.08.2006 issued by the District Superintendent of Education, Kishanganj addressed to the Secretary, Sukh Suvidha Committee to cancel the appointment of the private respondent No.9 is a case in point.

The learned single Judge after considering the dispute between the parties took cognizance of at least two decisions, which is a Full Bench decision rendered in the case of Kalpana Rani Vs. State of Bihar, reported in 2014(2) PLJR 665 as well as the decision rendered in the case of Smt. Renu Kumari Pandey vs. the State of Bihar, reported in 2011(4) PLJR 297. The two decisions have put to rest such controversies going on after coming into force of the Bihar Panchayat Primary Teacher (Appointment and Service Conditions) Rules, 2006, which came into effect on 01.07.2006, holding that since the post of Panchayat Shiksha Mitra no longer exists and all Panchayat Shiksha Mitra became Panchayat Teacher, the issue with regard to the appointment to the post of Panchayat Shiksha Mitra cannot be considered and adjudicated nor could any authority undo the legal status which was conferred by a deeming fiction with effect from 01.07.2006 to those persons who were continuing as Panchayat



Shiksha Mitra.

Since the private respondent No. 9 was continuing on the post of Panchayat Shiksha Mitra, so became Panchayat Teacher on 01.07.2006, the order of removal was rightly quashed by the learned single Judge and no relief can be given to the present appellant since he can not be appointed as Panchayat Shiksha Mitra after 01.07.2006.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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