

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1040 of 2014
IN
Civil Writ Jurisdiction Case No. 11896 of 2010**

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Kumari Latika Wife of Manish Kumar Singh resident of village - Gariba Tola,
Police Station - Revelganj, District - Saran at Chapra

.... Appellant

Versus

1. The State of Bihar
2. The Commissioner - Cum - Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Commissioner, Saran Division, Chapra
4. The District Magistrate, Saran
5. The Deputy Development Commissioner, Saran
6. The Sub - Divisional Officer, Sadar, Saran
7. The Executive Magistrate, Sadar, Saran
8. The District Superintendent of Education, Saran
9. The Block Development Officer, Revelganj, Saran
10. The Area Education officer, Sadar, Saran
11. The Block Education Extension Officer, Revelganj, Saran
12. The District Teachers Employment Appellate Authority, Saran
13. The Mukhiya, Gram Panchayat Raj Sitab Diyara, Revelganj, Saran
14. The Panchayat Secretary, Panchayat Raj Sitab Diyara, Revelganj, Saran
15. Jaya Kumari Wife of Ajit Kumar Singh resident of village - Alekh Tola, P.O. Gariba Tola, Police Station - Revelganj, District - Saran
16. Sangita Kumari Wife of Manoj Kumar Singh resident of village - Chhotka Sufal Tola, Sitab Diyara, P.O. Gariba Tola, Police Station Revelganj, District - Saran
17. Kumari Rubi Singh Daughter of Shri Keshav Singh resident of village - Chhotka Sufal Tola, Sitab Diyara, P.O. Gariba Tola, Police Station Revelganj, District - Saran
18. Nidhi Kumari Daughter of Harendra Singh resident of village - Chain Chapra, P.O. Sitab Diyara, Police Station Revelganj, District - Saran
19. Anshu Kumari Wife of Ranjit Bhadur Singh Posted as Panchayat Teacher, Primary School, Chain Chapra, P.O. Sitab Diyara, Police Station Revelganj, District - Saran

.... Respondent/s

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Appearance :

For the Appellant : Mr. P.K.Shahi, Senior Advocate
Mr. Bindhyachal Singh, Advocate
Mr. Ram Binod Singh, Advocate

For the Respondent State: Mr. Mr. Rana B.N.Singh, AC to GA-10

For the Respondent No.16 : Mrs. Rajani Kumari, Advocate

For the Respondent No. 19 : Mr. Devendra Prasad, Advocate
Mr. Arjun Prasad, 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: 14-07-2017

Heard counsel for the parties.

Respondent No.16 in the writ application filed on behalf of the private respondent Nos. 15, 16 and 17 to the present Letters Patent Appeal has challenged the order dated 06.05.2014 because their writ application was allowed. The learned single Judge modified the order of the appellate authority to the extent that the appointment of the present appellant, namely, Kumari Latika, was set aside as it was not done in a fair and square manner on the post of Panchayat teacher.

There were earlier rounds of litigations. Learned single Judge has taken note of the details of these litigations while exercising power of judicial review against the order of the District Teachers Employment Appellate Authority dated 19th May, 2010 passed in Case No.656 of 2009. He came to a considered opinion on the materials available in the pleadings that all was not well in the manner in which appointment on the post of a Panchayat teacher was made in Gram Panchayat Sitab Diyara, Revelganj Block in the district of Saran.

A question was sought to be raised on behalf of learned senior counsel for the appellant that the learned single Judge has committed an error of record by going into a new issue as to challenge to the appointment which primarily related to the so-called



new allegation of the appellant not having participated in the counselling. A new ground according to the senior counsel could not be taken or raised and entertained by the learned single Judge.

Such a submission is required to be negated because a perusal of the order of the District Teachers Employment Appellate Authority would indicate that even this question was raised before the Tribunal, but the Tribunal did not deal with it satisfactorily. The learned single Judge has this to opine with regard to participation of the present appellant in the counselling :

“So far Respondent no.16 Kumri Latika is concerned, counsel for the petitioner is right as on looking to the signature at different places, such as in the application form, self-attestation certificate and other documents, it does not tally with her signature appearing in the counselling register. This Court has closely examined the signature appearing at both places and arrives to a conclusion that the signature appearing in the counselling register is incongruent as different “Matra” in the spelling has been used with her signature appearing in the application form and allied documents vis-à-vis counselling register and accordingly, this Court is of the view that she was not present in the counselling and it appears that any stranger has made her signature and this Court finds that her appointment cannot be justified. Accordingly, the Panchayat Niyojan Samiti is directed to take proper action in accordance with law against her.”



This Court wanted to be doubly sure about the opinion and the finding of the learned single Judge which has been reproduced in the earlier part of the order and went through the two documents which were brought on record as Anenxure-10 series with the writ application. At page 54 is the application of the appellant where her signatures on the photograph as well as at the bottom of the application has been appended and this signature was tallied by this Court with the signature available on the counselling register which is at page 57 of the writ application. Even a layman by comparing the two signatures with naked eye can give his opinion that the signature of the appellant made on the counselling register does not tally with the signature at page 54 i.e. the application of the appellant. Not only this, this Court with certain authority can also opine that the signature made on the counselling register seems to be in the same pen and the same handwriting for all the candidates, who have been shown to have participated in the counselling.

This finding of the Division Bench tallies with the opinion of the learned single Judge and to that extent the finding of fact given by the learned single Judge cannot be said to be erroneous in any manner.

Learned senior counsel tried to expand the ambit of his argument by trying to rope in people who have already been



appointed by submitting that if what is wrong with the appointment of the present appellant then same ground will also apply with regard to other selections and appointments.

Since this Court is not sitting in a P.I.L. jurisdiction, but is sitting in appeal over the decision of the learned single Judge, we are not inclined to get taken in by the submission and expand the ambit of the adjudication by going into such issues. Whoever wants to derive the benefit of the finding given by us or by the learned single Judge can do the needful.

In totality, therefore, the Court does not feel that there is any error committed by the learned single Judge in allowing the writ application in the manner in which such appointments have come to be made by the Gram Panchayat.

I.A. No. 9154 of 2016 is rejected since it is a different cause of action for which the appellant may have a remedy.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

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