

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1291 of 2015

In
Civil Writ Jurisdiction Case No.10156 of 2009

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1. The State of Bihar
 2. The Director, Primary Education, Bihar, Patna
 3. The District Magistrate-cum-Chairman, District Establishment Committee, Rohtas at Sasaram
 4. The District Superintendent of Education-Cum-Sub Divisional Education Officer, Kaimur (Bhabhua)
 5. The District Superintendent of Education, Rohtas (Sasaram)
 6. The Sub Divisional Education Officer, Bhabhua
 7. The Head Master, Middle School, Banka Bahuara, Police Station- Ramgarh, District- Rohtas

... .. Appellant/s

Versus

Ram Prayag Singh S/o Shri Ram Prabesh Singh, Ex-Assistant Teacher, Middle School, Banka, Bahuara, Police Station- Ramgarh (Muanon), District- Kaimur (Bhabhua), Permanent Address R/o Village- Dera, Police Station- Nokha, District- Rohtas

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. S.K. Mandal,
For the Respondent/s : Mr. M.K. Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

7 25-08-2017 The appeal, preferred against the order dated 09.11.2010 passed by the learned single Judge in C.W.J.C. No. 10156 of 2009, is required to be dismissed for the reason that twice opportunity was given the State authorities to hold an enquiry against the private respondent against the so-called wrongful employment as Assistant Teacher, first, in C.W.J.C. No. 7345 of 1990 decided on 13.04.1992 and, second, in C.W.J.C. No. 10156 of 2009 decided on 09.11.2010 against which order the



appeal has been preferred.

Since the State itself threw up its hands that they could not hold an enquiry because the concerned file went missing, they cannot take advantage of failure within the system and if they have no other ways of constructing the file by inputs, then the advantage will accrue to the employee and not to the State. The State cannot be rewarded for its failure as well as failure to avail the opportunity granted to them twice by the High Court.

It is a frivolous appeal which should be dismissed with may be some kind of cost especially when the so-called effort made by the State authorities to hold an enquiry against the custodian of records has also not moved an inch in so many years.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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