

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7002 of 2013

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1. Kumari Anupam, Wife of Manoj Kumar, Resident of Village- Jhapani, P.S.- Mediani Chauki, District- Lakhisarai.
 2. Ruby Kumari Wife of Samir Kumar Resident of Village- Khawa, P.S.- Medinichouki, District- Lakhisarai.
 3. Ajit Kumar, Son of Dhanik Lal Mahto, Resident of Village- Khawa, P.S.- Medinichauki, District- Lakhisarai.
 4. Rajesh Kumar, Son of Bishundeo Mahto, Resident of Village- Khawa, P.S.- Medinichouki, District- Lakhisarai.
 5. Ranjeet Kumar, Son of Rajendra Mahto, Resident of Village- Khawa, P.S.- Medinichouki, District- Lakhisarai.
 6. Kumari Anupam, Wife of Pramod Kumar, Resident of Village- Khawa, P.S.- Medinichouki, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar, through Secretary Primary & Adult Education, Human Resources Department, Government of Bihar, Patna.
2. Secretary, Primary & Adult Education, Human Resources Department, Government of Bihar, Patna.
3. District Magistrate, Lakhisarai Chairman, Sarva Siksha Abhiyan, Lakhisarai.
4. District Superintendent of Education, Lakhisarai Programme Co-ordinator, Sarva Shiksha Abhiyan, Lakhisarai.
5. Mukhiya, Khawa Rajpur Gram Panchayat- Surajgarha P.S.- Medini Chauki, District- Lakhisarai.
6. Panchayat Sachiv, Khawa Rajpur Gram Panchayat- Surajgarha, P.S.- Medini Chauki, District- Lakhisarai.
7. Sunita Kumari, Wife of Shatrughan Das, Resident of Village- Jhapani, P.S.- Medini Chauki, District- Lakhisarai.
8. Bhupesh Kumar, Son of Vakil Prasad Mahto, Resident of Village- Jhapani, P.S.- Medinichouki, District- Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y. V. Giri, Sr. Advocate Mr. Pramod Kumar Singh, Mr. Birendra Kumar Tiwary and Mr. Krishna Kant Tiwary, Advocates
For the State	:	Mr. Yogendra Prasad Sinha, A.A.G. 7 Mr. Rajeev Kumar Sinha, A.C. to A.A.G. 7
For the Respondent No. 5	:	Mr. P. N. Sahi, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-03-2017

Heard Mr. Y.V. Giri, learned senior counsel assisted



by Mr. Pramod Kr. Singh, learned counsel for the petitioners and learned counsel for the State.

The challenge in the present writ application is to the order dated 02.02.2013 passed in Appeal Case No. 2/2011-12 by the District Teachers Employment Appellate Authority, Lakhisarai (hereinafter referred to as the 'Authority'), by which the appointment of the petitioners has been set aside.

Learned counsel for the petitioners submitted that they were validly appointed in the year 2006-07 on the post of Shiksha Mitra/Panchayat Teacher and have continued on the said post.

Learned counsel for the respondents no. 7 and 8, who were also applicants for employment, moved this Court in C.W.J.C. No. 3090 of 2009 and by order dated 17.03.2011, the matter was remanded to the Authority to hear the parties and pass final order on merit. Learned counsel submitted that pursuant to the same, the matter has been heard and by the impugned order, though on the one hand, it has been held that the respondents no. 7 and 8, who were appellants before the Authority had no claim or right for such appointment but on the other hand, the appointment of the petitioners has also been interfered with. Learned counsel submitted that the same is arbitrary for the reason that the nature of the *lis* before the



Authority is not that of a Public Interest Litigation and is restricted to personal disputes. Learned counsel submitted that even otherwise, on merits, once the Authority came to a finding that the complainant/appellant before the Authority could not be granted relief, it was not required to go for a roving enquiry against the appointment of others, including the petitioners. Learned counsel submitted that nothing has been brought on record to indicate about any illegality in the appointment of the petitioners and they have continued on the post since then.

Learned counsel for the State submitted that the Authority has gone into the matter and come to the conclusion holding the appointment of the petitioners to be bad.

Despite notice having been issued to the respondents no. 7 and 8 and the same having been validly served, neither any counter affidavit has been filed on their behalf nor anybody is present to represent them.

Having considered the facts and circumstances of the case and submissions of learned counsel for petitioners and the State, in the considered opinion of the Court, the impugned order cannot be sustained. Without going into the finer details on merits, the Court finds substance in the contentions of learned counsel for the petitioners that once the respondents no. 7 and 8, who were



complainants before the Authority, it was the foremost duty of the Authority to first determine as to whether they had a case and whether they could have been appointed had the petitioners been removed from their post. Once a categorical finding has been recorded by the Authority itself that the appellants before it, that is respondents no. 7 and 8, did not have a case and could not have been appointed, the Authority should have stayed its hand and could not have gone further into the validity of the appointment of the petitioners and holding them to be illegal. The categorical stand taken on behalf of the petitioners that they have continued to the post without break, till date, is an additional factor in favour of the petitioners.

Learned counsel for the petitioners has also brought on record the appointment letter of the respondent no. 7, showing that she has already been appointed in a different Panchayat.

For the reasons recorded above, the impugned order dated 02.02.2013 passed by the Authority in Appeal Case No. 2/2011-12, as far as it relates to the petitioners, is set aside. The natural consequences shall follow.

(Ahsanuddin Amanullah, J.)

P. Kumar

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