

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1380 of 2013

In
Civil Writ Jurisdiction Case No.17195 of 2012

=====

Md. Ziauddin, S/O Md. Alamuddin, Resident Of Village- Sirsi, P.S-
Khodawandpur, District- Begusarai.

... .. Petitioner- Appellant/s

Versus

1. The State of Bihar.
2. The District Teacher Appointment Appellate Authority, Begusarai.
3. The Commissioner- Cum- Secretary, Human Resources Department, Govt. Of Bihar, Patna.
4. The Special Secretary- Cum- Director, Human Resources Department, Primary Education, Govt. Of Bihar.
5. The District Magistrate, Begusarai.
6. The In- Charge Officer, District Development Branch, District- Begusarai.
7. The District Superintendent Of Education, Begusarai.
8. The Block Development Officer, Bachwara Block, Begusarai.
9. The Block Education Extension Officer, Bachwara Block, Begusarai.
10. The Mukhiya, Gram Panchayat Raj, Bhikhamchak, Bachwara Block, District- Begusarai.
11. The Panchayat Secretary, Gram Panchayat Raj Bhikhamchak, Bachwara Block, District- Begusarai.
12. Md. Nazre Imam, S/O Md. Kalam, Resident Of Village- Arwa, P.S- Bachwara, District- Begusarai.

... .. Respondents-Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Satyavrat Verma, Advocate

For the Respondent/s : Mr. Sunil Kr. Mandal

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 07-12-2017

Seeking exception to an order dated 29.07.2013 passed by the Writ Court in Civil Writ Jurisdiction Case No.17195 of 2012, this appeal has been filed by the appellant.

In the matter of appointment of teacher (Prakhand Teacher) in the year 2006, based on counselling held between 04.10.2006 to 11.10.2006, the concurrent findings of facts recorded by the District Teachers Employment Appellate Tribunal, Begusarai and the learned Writ Court are challenged in these proceedings.

Even though it was the case of the petitioner that respondent No.12 Md. Nazre Imam is being appointed even though he did not participate in the process of counselling, the concurrent findings recorded by the appellate tribunal and the Writ Court are based on factual enquiries conducted with regard to selection in question and from para 14 onward, the learned Writ Court has discussed the findings that came out in the inquiry and found that there has been manipulation in the merit list prepared including the fact about counselling and the persons who participated in the counselling and in para 14, the following findings are recorded by the Writ Court:-

“14. In any event the finding of the Block Development Officer, the competent authority as with regard to appointment of the petitioner, was quite clear



because it was found therein that there were two merit list, one containing the signature of Mukhiya and the Panchayat Secretary in which the name of respondent no.12 was written and thereafter struck off and in the other merit list which was signed by the Mukhiya, Panchayat Sachiv and also seen by the Block Education Officer, Bachhwara on 30.4.2007 and the Block Development Officer on 7.6.2007 there were glaring inconsistency, inasmuch as neither of the merit list were verified by the competent Supervisor. In the said order it was also clearly mentioned that the counselling was held on 6.10.2006, whereas the merit list was prepared on 20.10.2006 and the Block Development Officer had found that in fact the counselling register itself had been changed on account of which respondent no.12 having 57.88% marks was eliminated from the race by the petitioner securing 55.66% marks.”

Thereafter, in para 15, the learned Writ Court reproduced the entire finding of fact recorded by the appellate Tribunal in Hindi which goes to show that there has been manipulation in the selection record and a more meritorious candidate was illegally prevented from seeking appointment and to give advantage to the present appellant, the records have been manipulated. The learned Writ Court and the appellate Tribunal have gone into detail with regard to manipulation done and the merit list and the counselling records and have held that respondent No.12, a more meritorious candidate is entitled for appointment. In our considered view, the



concurrent findings recorded by the Tribunal and the learned Writ Court are based upon finding recorded in a fact finding enquiry and we see no reason to interfere into the aforesaid concurrent findings recorded by the Tribunal and the Writ Court. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2017
Transmission Date	

