

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1006 of 2014
IN
Civil Writ Jurisdiction Case No. 108 of 2013**

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Rinki Kumari daughter of Sh. Binayak Prasad Singh resident of Village- Hethua,
Police Station- Rajpur, District- Buxar.

.... Appellant

Versus

1. Vinita Sinha wife of Sh. Rajan Kumar Srivastava resident of Village- Hethua,
Police Station- Rajpur, District- Buxar.
2. The State of Bihar.
3. The Secretary Primary and Adult Education Department, Government of Bihar,
Patna.
4. The District Magistrate, Buxar
5. The District Teacher's Employment Appellate Authority, Buxar.
6. The District Superintendent of Education, Buxar/The District Education Officer,
Buxar.
7. The Block Education Extension Officer, Rajpur, District- Buxar.
8. The Block Development Officer, Rajpur, District- Buxar.
9. Ruby Kumari daughter of Sh.Sadanand Singh resident of Village & Post- Sisrahar,
Block & Police Station- Rajpur, District- Buxar.
10. The Mukhiya, Gram Panchayat Raj Hethua, Police Station- Rajpur, District-
Buxar.
11. The Panchayat Secretary, Gram Panchayat Raj Hethua, Police Station- Rajpur,
District- Buxar.

.... Respondents

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Appearance :

For the Appellant : Mrs. Nivedita Nirvikar, Advocate
Mr. Manoj Kumar, Advocate
For the Respondent No.1: Mr. Shri Prakash Srivastava, Advocate
Ms. Anu Priyadarshini, Advocate
Mr. Navin Anand, Advocate
For the Respondent State : Mr. Dr. Ran Kumar Singh, AC to SC-7

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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: 07-04-2017

Heard counsel for the parties.

The order dated 20th June, 2014 passed by the learned
single Judge in C.W.J.C. No. 108 of 2013, who granted relief in



favour of the petitioner, who is the private respondent No.1 to the present Letters Patent Appeal, is the subject matter of challenge before the Division Bench.

There has been many rounds of legal battle fought earlier. On a direction issued by the High Court in C.W.J.C. No. 581 of 2010 preferred by respondent No.10, Vinita Sinha, matter was remitted to the District Teachers Employment Appellate Authority, Buxar, where all the parties to the dispute were impleaded and heard. The District Teachers Employment Appellate Authority, Buxar, taking the history of the hiring of the present appellant and the reason and compulsion of engagement of yet another teacher, who in the present case happens to be Vinita Sinha, came to a considered opinion that since the third term of contract, which is of 11 months each, came to an end on 15.02.2006 and no further appointment could be made or was made, therefore, the appointment of another teacher in place of the vacancy created on expiry of contract of the present appellant was not required to be interfered with.

There was also some controversy about the appointment of Vinita Sinha because there was yet another candidate Rubi Kumari who was higher in the merit list but since she was already working as an in-charge Headmaster in another school she was not keen for any further appointment, but the Tribunal held the



appointment of Vinita Sinha to be bad as well.

Vinita Sinha filed a writ application, namely, C.W.J.C. No. 108 of 2013, in which the impugned order dated 20th June, 2014 has been passed. The learned single Judge, after wading through the history of the engagement, continuance and end of extension of the period of contract of the present appellant, interfered with the order of the Tribunal to the extent that he held the appointment of Vinita Sinha to be valid, her removal was set aside, but no relief was extended to the present appellant in the above background.

In the appeal, learned counsel for the appellant submits that she is fully protected by a Circular of the State Government which was brought on record as Annexure-H as part of the counter affidavit of respondent No.11 in the writ application. Annexure-H talks about a code of conduct being in place and, therefore, extension of the period of contract of the Shiksha Mitra, which was not done during that period, was required to be done subsequently or would be deemed to have been done and if they continued to be a Panchayat Shiksha Mitra on 01.07.2006, by deeming fiction, they will be treated to have become a Panchayat Teacher.

The submission of the learned counsel for the appellant and reliance on Annexure-H in the opinion of this Court is of no avail. The Circular contained in Annexure-H dated 8th August, 2006



would apply to such cases where the extension for the third time could not be accorded because of the code of conduct being in place due to election of Mukhiyas. Whereas in the present case the appellant's term for the third time had expired on 15.02.2006 and she was not eligible for any further extension of the contract and if she was not continuing on the post of Panchayat Shiksha Mitra on 01.07.2006, even by deeming fiction and as per 2006 Rules she cannot acquire the status of Panchayat Teacher.

The Court, therefore, comes to a considered opinion that removal of the present appellant by the Panchayat after the expiry of the third contract period cannot become a matter of debate or argument. The submission of the appellant that a notice etc. was required or mandated is not supported by any rule or law in this regard. The contract came to an end and so does the term automatically, after its expiry. The continuance, therefore, of the present appellant on the post as she claims to now is untenable and illegal and is a matter which is required to be investigated by authorities as to how this was facilitated and by whom and for what reason.

So far as the order of the learned single Judge giving relief to Vinita Sinha is concerned even if this Court sets aside the order of the learned single Judge with regard to such validity of



appointment of Vinita Sinha, this appellant cannot occupy the post by any stretch of imagination or interpretation of the rule or the law. However, since the reason has been cogently explained for upholding the appointment of Vinita Sinha due to vacancy caused by the completion of term of the present appellant, this Court would not like to interfere with the finding and the validity of appointment of Vinita Sinha.

The appeal, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	10.04.2017
Transmission Date	N/A

