

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2086 of 2016

In
Civil Writ Jurisdiction Case No.12933 of 2016

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Anil Kumar Tiwary, S/o- Sri Niwas Tiwari, R/o- Village- Bishunpura, P.O. Bampali, P.S. Udwant Nagar, District- Bhojpur

... .. Appellant/s

Versus

The State of Bihar & Ors.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Maya Shankar Mishra, Advocate
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 20-11-2017 Keeping in view the order dated 27.09.2016 passed by the learned Writ Court in C.W.J.C. No. 12933 of 2016, which reads as under:-

“From the above tabular chart it would be clear that upto 2014-15 their had been no financial constraint and hence at the relevant time recruitment of teachers was done based on previous TET but it is from 2015-16 that financial constraint have been caused on account of inadequate release of Central share under SSA Scheme and it is primarily on account of the said reason that the Primary Directorate is under constraint to proceed further with the recruitment process of teachers under the Panchayati Raj System at the present.

15. That it is relevant to submit here that there is no



legal obligation on the part of State of advertise all the vacant posts and to fill them up. How many posts are to be filled up deponent's upon.

- (a) Financial capacity or budgetary provision.
- (b) Infrastructure for the posts, in question.
- (c) The needs of filling up the posts.
- (d) Administrative exigencies.
- (e) Any other similarly situated reasons.

Thus, variety of the facts are affecting the policy decision of the state that how many posts are to be filled up.”

In view of the above position emerging on behalf of the State the prayer made in the writ application is misplaced.

Writ is dismissed.”

We see no error in the order passed as issuance of mandamus to fill up a vacant post is not permissible under law.

Accordingly, finding no error in the order passed by the learned Writ Court, the Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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