

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8846 of 2011

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Afshan Khurshid, W/O Md. Rizwan Alam, R/O Village - Parham, P.S.-
Naya Ram Nagar, Block- Jamalpur, District – Munger.

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner-Cum-Secretary, Human Resources Development Department, Bihar, Patna.
3. The Director, Primary Education Department, Govt. of Bihar, Patna.
4. The Member, Teachers Appointment Appellate Authority, Munger.
5. The District Superintendent of Education, District – Munger.
6. The Block Development Officer, Block- Jamalpur, District – Munger.
7. The Block Education Officer, Block- Jamalpur, District – Munger.
8. The Mukhiya, Gram Panchayat Raj Parham, Block- Jamalpur, District – Munger.
9. The Panchayat Secretary, Gram Panchayat Raj Parham, Block- Jamalpur, District – Munger.
10. Ranveer Kumar Singh, S/O Ram Lakhan Singh, R/O Village+ P.O.- Farada Sitarampur, District-Munger.
11. Rajesh Kumar, S/O Ram Balak Kumar, R/O Village+P.O. Farada, District-Munger.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Singh, Advocate.
For the State : Mr. Naman Nayak, A.C. to A.A.G. X.
For the Pvt. Respondent : Mr. Suman Kumar Mishra, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
CAV ORDER

8 31.08.2017 This writ application has been filed to quash the order contained in Memo No. 772 dated 07.02.2011 passed in Appeal No. 13/09 issued by the District Teacher Employment authority Munger, whereby the appointing authority has been directed to make removal of the petitioner from the post of Panchayat Teacher.



The Learned Counsel for the petitioner submitted that on 10.02.2003 meeting of the Sukh Suvidha Committee of the concerned Gram Panchayat was held for the purposes of selection of Panchayat Shiksha Mitra and the petitioner besides others came to be selected under unreserved category. The petitioner was appointed on the post of Shiksha Mitra in Primary School Maqtab Mian Toli in terms of Letter No. 04 dated 20.02.2003 (Annexure-5) and on the same day she made her joining. The petitioner enhanced her qualification and passed out Molvi Examination which is equivalent to Intermediate, as the State Government made change in the illegibility criteria i.e. Minimum Educational Qualification for appointment on the post of Panchayat Shiksha Mitra. It is further submitted that the petitioner was already appointed and serving the post of Shiksha Mitra on 01.07.2006, therefore, in terms of Rule 20 (iii) of Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rule 2006, her absorption was made on the post of Panchayat Shikshak. The petitioner also completed Teachers training course from Indira Gandhi National Open University.

The District Teachers Employment Appellate Authority Munger, vide Letter No. 407 dated 03.05.2010 asked



the petitioner to produce the relevant documents of her appointment, whereupon the petitioner submitted her reply that she was appointed to the post of Shiksha Mitra in the year 2003 and the documents relating to her appointment are available with the Panchayat Niyojan Samiti, therefore, the same may be asked from the concerned person.

The Learned Counsel for the petitioner further submitted of validity of initial appointment of Panchayat Shikha Mitra cannot be adjudicated by the District Teachers Employment Appellate Authority, constituted under Rule 18 of the Bihar Panchayat Elementary Teachers (Employment and Service Condition) Rules 2006. Especially in view of the Divisional Bench Judgment of this Court rendered in the Case of Renu Kumari Pandey Vs. State of Bihar & others reported in 2011 (4) PLJR 297, which reads thus;

“18. We may also note here that though the State Government framed a complete scheme for employment of Panchayat Shiksha Mitra at Gram Panchayat level in furtherance of its goal of “Education for All”, in none of the aforesaid Resolutions the Government had provided for an adjudicatory machinery. In other words, the State Government did not make any provisions for redressal of grievance in respect of selection and employment of Panchayat Shiksha Mitra or their re-employment after the expiry of the contractual period. On perusal of the records



of the above writ petitioner, we find that in absence of such machinery, the aggrieved persons approached the authority whom such persons considered to be the competent/the convenient authority. In our opinion, in absence of powers expressly conferred upon any such authority the reports of the orders made by such authority are of no consequence. No relief can be granted on the basis of the finding recorded by such authority. We may also point out that Elementary Teachers Appellate Authority constituted under Rule 18 of the Rules, as amended by Bihar Panchayat Elementary Teacher (Employment and Service conditions) (Amendment) Rules, 2008 is empowered to entertain, hear and decide the appeals arising out of the employment of elementary teachers under the Rules. The said appellate authority has no jurisdiction to entertain, hear or decide the disputes relating to the employment of Panchayat Shiksha Mitra under the then prevalent Resolutions, Circulars, Orders, Instructions.”

After going through the order dated 07.02.2011, impugned hereunder, I find that the only complaint was made against the engagement of Ranvir Kumar Singh on the post of the Panchayat Shiksha Mitra but the District Appellate Authority while examining the entire records of the appointment of Shiksha Mitra of the concerned Gram Panchayat made in the year 2003, found the appointment of the petitioner being not made in accordance with law, thus directed the concerned Panchayat Niyojan Samiti as to terminate the



service of the petitioner.

In my opinion since there was no complaint against the appointment of the petitioner on the post of Shiksha Mitra, therefore the Appellate Authority cannot passed such direction regarding termination of services of the petitioner.

A Division Bench of this Court in the Case of Puja Vs. The State of Bihar and others reported in 2016 (1) PLJR 836 held that the Appellate Authority is a creature of the statue. Its jurisdiction and power is confined to appeals made to it and therefore confined to the four corners of the complaint. It has neither power of Superintendents nor any inherent power to do justice. Its power is limited to resolve the inter-se dispute between the parties. The Tribunal could not decide such issue which was not before it.

In view of the said judgments rendered in the case of Puja (Supra) and Smt. Renu Kumari Pandey (Supra), the direction for termination of service of the petitioner from the post of Panchayat Teacher as contained in order dated 07.02.2011 passed in Appeal No. 13/09 is not sustainable under the law.

Thus, the order of the District Appellate Authority,



challenged hereunder, dated 07.02.2011 passed in Appeal No.
13/09 is partly set aside to the extent as indicated above.

Therefore, this writ application is, accordingly,
allowed.

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(Sudhir Singh, J)

