

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.308 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 17052 of 2010**

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Mahesh Rai S/o Sri Nageshwar Rai Resident of Village- Choraut, Post Office-
Pupri, Police Station- Pupri, District- Sitamarhi.

.... Appellant

Versus

1. The State of Bihar through the District Magistrate Sitamarhi.
2. The Block Development Officer, Choraut Block, District- Sitamarhi.
3. The Block Education Extension Officer, Choraut Block, District- Sitamarhi.
4. The Mukhiya, Gram Panchayat Raj, Parigama, Choraut Block, District- Sitamarhi.
5. The Panchayat Secretary, Gram Panchayat Raj, Parigama, Choraut Block, District- Sitamarhi.
6. The Member, District Teachers Appointment Appellate Authority
7. Mr. Lal Babu Rout S/o Late Sonaffi Rout Resident of village- Choraut, Post Office- Pupri, Police Station- Pupri, District- Sitamarhi.

.... Respondents

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Appearance:

For the Appellant/s : Mr. Krishna Chandra, Advocate.

For the Respondent/s : Mr. Harish Kumar, GP 32.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 23-06-2017

Heard counsel for the appellant and counsel for the State.

The appellant lost before the District Teachers
Employment Appellate Authority because the Appellate Authority
found that the appointed candidate had not only more marks than the
present appellant but also higher percentage of disability.



An effort was made by the appellant to raise similar kind of grievance before the learned Single Judge but after perusing the order of the District Teachers Employment Appellate Authority and the finding thereto, the learned Single Judge refused to interfere with the order of the Tribunal and also held that he is not willing to go into the dispute about the degree of physical disability by going into a fact finding mode.

Learned counsel representing the appellant submits that the Mukhiya or the Gram Panchayat authorities did not produce relevant records and materials which created serious prejudice to the appellant in a fair kind of adjudication which could be made by the Tribunal.

The non-production of records as such has not created any serious prejudice to the issue for the simple reason that the appointed candidate obviously has not only more merit but also suffers from more disability than the present appellant.

The prayer of the counsel for the appellant is that he may be permitted to go before the State Tribunal, which has now been constituted, or a Civil Court, which liberty the learned Single Judge has given.

It will be futile and frivolous to encourage any further litigation on this issue considering the nature of employment and the



findings which have emerged with regard to the selection.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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