

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.138 of 2015
IN
Civil Writ Jurisdiction Case No. 16887 of 2009**

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1. Shanker Kumar Jha son of Late Umakant Jha resident of village Hati, P.O. Benk,
P.S. Biroul District Darbhanga.

.... Appellant/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar Secretariat, Patna.
2. The Secretary, Human Resources Department of Bihar, Patna.
3. The Collector, Darbhanga.
4. The Block Development Officer, Biroul, Darbhanga.
5. The District Education Officer, Darbhanga.
6. The Gram Panchayat Raj Uchhati, through its Mukhia, Gram Panchayat Raj Uchhati, Biroul, Darbhanga.
7. Sri Vijay choudhary, Mukhia, Gram Panchayat Raj Uchhati, Biroul, Darbhanga. (deleted).
8. The Panchayat Sachiv, Gram Panchayat Raj Uchhati, Biroul, Darbhanga.
9. Md. lal Babu son of Md. Usman resident of village Akbarpur Benk, P.S. Biroul District Darbhanga.
10. Ganesh Kumar Jha Son of Ram Lakhan Jha resident of village Akbarpur Benk, P.S. Biroul District Darbhanga.
11. Ajit Kumar Mishra Son of Shyamanand Mishra resident of village Akbarpur Benk, P.S. Biroul District Darbhanga.
12. Santosh Kumar Jha Son of Vijay Kumar Jha resident of village Akbarpur Benk, P.S. Biroul District Darbhanga. (deleted).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kaushalesh Choudhary
For the Respondent/s : Mr. Sanjay Prasad, AC to AAG 4

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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 Letters Patent Appeal has been filed against the
order dated 21.02.2014 passed by the learned Single Judge, who has



dismissed the writ application refusing to interfere with the order of the District Teachers Employment Appellate Authority where the claim of the petitioner for appointment as a Panchayat Teacher was rejected.

The learned Single Judge did not find any infirmity with the rational and reasoning of the District Teachers Employment Appellate Authority on many a grounds, which included the fact that nothing glaring as such had emerged, which could create a situation for the Tribunal or learned Single Judge to set aside the appointment and direct appointment of the present appellant.

Yet another issue of significance is what the learned Single Judge has taken note of in paragraph 5 of the impugned order, which reads as under :

“5. Learned counsel for the petitioner submits that he could not challenge the said order on account of fact that order passed by the Block Development Officer was never served upon him but nowhere in the writ petition he has pleaded. Mere a submission without any foundational fact cannot be accepted that too by a lawyer. He can only make submission on the basis of pleading which is missing in the present case. It is apparent that Appellate Authority in order dated 28.8.2009 passed in Appeal No.633 of 2009 has specifically mentioned about the order passed by



the Block Development Officer. Petitioner cannot say that he has no knowledge about the order of Block Development Officer. This Court is of the view that the issue that has been raised by the petitioner cannot be adjudicated on account of legal bar of res-judicate.”

In the above circumstances, this Court is not willing to interfere with the order of the learned Single Judge.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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