

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.444 of 2016

IN

Civil Writ Jurisdiction Case No. 8293 of 2010

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1. Bipul Bikram S/o Late Dharendra Kumar, resident of Village- Kawela, P.S.- Parbatta,
District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Khagaria.
3. The District Superintendent of Education, Khagaria.
4. The Block Development Officer, Parbatta Block, District- Khagaria.
5. The Block Education Extension Officer, Parbatta Block, District- Khagaria.
6. Tunni Thakur, Mukhiya, Gram Panchayat, Kabela, Block- Parbatta, District- Khagaria.
7. Panchayat Secretary, Gram Panchayat, Kabela, Block- Parbatta, District- Khagaria.
8. Appellate Authority, District Teachers Appointment Khagaria, through its member.
9. Setu Choudhary S/o Kajo Choudhary, resident of village- Balha, P.S.- Parbatta, District- Khagaria.

.... Respondents/Opposite parties.

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Appearance :

For the Petitioner/s : Mr. Anant Kumar-1, Adv& Mr. Sanjay Kumar Sharma,
Adv

For the Respondent/s : Mr. Ashutosh Ranjan Pandey, AAG15

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 22-02-2017

The petitioner seeks review of an order of this Court
dated 18.11.2014, passed in C.W.J.C. No. 8293 of 2010 wherein, the
petitioner had sought for quashing of an order dated 30.04.2010,



passed by the District Teachers Appointment Appellate Tribunal, Khagaria, whereby the Tribunal had directed the concerned Panchayat Teachers Appointment Committee to re-engage respondent no. 9 as Shiksha Mitra, after cancelling the appointment of the petitioner as Panchayat Shikshak of Gram Panchayat Raj Kabela.

This Court found merit in the plea taken on behalf of the petitioner, on the question of jurisdiction of the appellate authority to look into the correctness or otherwise of appointments made to the Panchayat Teachers in the light of the Full Bench decision of this Court in the case of **Kalpana Rani vs the State of Bihar** reported in **2014(2) PLJR 665**. This Court had, however, noticed that the assessment done at the time of engagement of Shiksha Mitra was itself incorrect inasmuch as the petitioner's merit was assessed on the basis that he had secured 731 marks out of 900 marks instead of 671 out of 900.

Considering the fact that the petitioner's appointment itself was illegal, this Court while setting aside the impugned order of the appellate authority set aside the appointment of the petitioner also, by the said order under review dated 18.11.2014.

Learned counsel for the petitioner has submitted that even after the petitioner's marks is taken to be 671, his merit is better than respondent no. 9 and therefore, his appointment ought not to



have been set aside.

In response to a query made by this Court as to whether on the basis of 671 marks in the intermediate examination, he could be held to be the most meritorious among the persons who had applied for the post, learned counsel for the petitioner has replied in negative. Admittedly, thus on the basis of merit position of the petitioner, he could not have been selected and his appointment on the basis of wrong assessment of marks was illegal.

Learned counsel appearing on behalf of the petitioner has submitted, with reference to an order of this Court date 23.03.2015 passed in C.W.J.C No. 11959 of 2010 (Prashant Kumar vs the State of Bihar & Ors) that in view of the Full Bench decision of this Court, appointment of Shiksha Mitra could not be called in question after coming into force of Bihar Panchayat Elementary Teacher(Appointment & Service Conditions) Rules 2006.

I do not find any merit in the submissions, so advanced. The Full Bench decision of this Court in the case of Kalpana Rani (Supra) has been taken note of in the order which is under review. The petitioner had preferred Letters Patent Appeal against the said order before the Division Bench. In view of certain observations made by the Division Bench, on his plea of evaluation of marks, he had been granted liberty to file review application.



I find the present review application to be frivolous and ill advised.

This application is, accordingly, dismissed with a cost of Rs. 10,000/ to be deposited by the petitioner in the Patna High Court Legal Services Committee within four weeks.

(Chakradhari Sharan Singh, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.03.2017
Transmission Date	N.A.

