

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8095 of 2015

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Dinesh Kumar son of Sri Medni Prasad Singh resident of village- Khanrpar, P.O.- Kabandpur, P.S.- Suryagarha, District- Lakhisarai, at present as trained teacher at 10+2 Rajkiya Uchch Vidyalay Lalath, P.S.- Barhat, District- Jamui.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary H.R.D. , Bihar, Patna
3. The Director, Secondary Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Munger
5. The District Magistrate, Jamui.
6. The District Education Officer, Jamui.
7. The District Programme Officer (Secondary Education) Jamui.
8. Ramanuj Kumar, S/o Shri Kashi Singh posted as Contract teacher at +2 Govenment High School Lathlath , Block & P.S.- Barhat, Distt.- Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 08-04-2017

Learned counsel for the petitioner and State have assisted the Court.

2. The writ petition has been filed seeking quashing of order contained in Memo No. 120 dated 23.03.2015, issued by the respondent no. 7 by which respondent no. 8 has been made Incharge Headmaster of 10+2 Government High School, Lathlath in the district of Jamui by superseding of the earlier order dated 27.02.2015, by which the petitioner was made the Incharge Headmaster.

3. Learned counsel for the petitioner submitted that he



was appointed as a trained teacher on 20.11.2006 whereas the respondent no. 8 was appointed as a trained teacher on 16.02.2007 and thus, rightly the petitioner had been made Incharge Headmaster in view of the decision of the State Government as contained in the letter of the respondent no. 3 in Memo No. 460 dated 25.03.2014, which provides for making the person, who is senior on the basis of his date of joining, as the Incharge Headmaster.

4. Counter affidavit has been filed on behalf of the State in which the ground taken is that the respondent no. 8 possessed higher qualification but reliance is also placed on the same Memo No. 460 dated 25.03.2014. The said decision of the State Government dated 25.03.2014, does not mention any qualification and the only consideration is based upon seniority and that too based upon the date of joining. Thus, the Court is of the opinion that the interim arrangement made by the respondents of making respondent no. 8 the Headmaster of the same school in which the petitioner is working, is not permissible.

5. Earlier, by order dated 04.02.2017, notice had been issued to respondent no. 8 through both processes as well as through Dasti service. As per office report dated 04.04.2017, the respondent no. 8 has been validly served. It appears that in the notice, the date fixed for hearing of the case was 31.03.2017. As no valid ground has



been shown by the State to deny making the petitioner as Incharge Headmaster compared to respondent no. 8 and respondent no. 8 despite having being duly served, neither entering appearance nor filing any counter affidavit, the Court has proceeded to finally decide the matter.

6. For the reasons aforesaid, the impugned order contained in Memo No. 120 dated 23.03.2015 passed by the respondent no. 7 is quashed. The order contained in Memo No. 82 dated 27.02.2015 stands revived.

7. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

P. Kumar

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