

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1187 of 2013
IN
Civil Writ Jurisdiction Case No. 3903 of 2010**

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1. Rajeew Ranjan Son Of Shri Kamleshwari Pd. Yadav Resident Of Village -
Khunt, P.O. Chopra Ram Nagar, P.S. Jankinagar, District - Patna

.... Appellant/s

Versus

1. The State Of Bihar Through The Principal Secretary, Human Resources
Development Department, Government Of Bihar, Patna
2. The Social Secretary Cum - Director, Primary Education, Government Of
Bihar, Patna
3. The District Superintendent Of Education, Purnea
4. The Sub - Divisional Education Officer, Banmankhiu, District - Purnea
5. The Block Development Officer, Banmankhi, District - Purnea
6. The Block Education Extension Officer, Block - Banmankhi, District - Purnea
7. The District Teacher Appointment Authority, Purnea
8. The Mukhiya, Gram Panchayat Ram Nagar Pharsahi, Block - Banmanki, P.S.
Jankinagar, District - Purnea
9. The Panchayat Secretary, Gram Panchayat Ram Nagar Pharsahi, Block -
Banmanki, P.S. Jankinagar, District - Purnea
10. Manoranjan Bharit Son Of Shri Surynarayan Yadav Resident Of Village -
Tetrahi, P.S. Jankinagar, District - Purnea

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Alok Kumar Singh, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-04-2017

Seeking exception to an order dated 8.4.2013 passed
by the learned Writ Court in C.W.J.C. No.3903 of 2010, this appeal
has been filed under Clause 10 of the Letters Patent.

2. Petitioner was a candidate who had participated in
the process of appointment made to the post of Panchayat Teacher.



However, the District Teachers Appointment Appellate Authority, Purnea, at the instance of respondent No.10, having interfered with the matter and having annulled the appointment of the petitioner, the matter went to the learned Writ Court and the writ Court having dismissed the writ petition, this Appeal has been filed.

3. Learned counsel for the appellant argued that respondent did not appear in the process of counseling even though notices for counseling were sent to him under U.P.C. and the date of the counseling was also notified in the Hindi Daily “Aaj” In spite of that as he did not appear in the process of counseling, the respondent No.10 was not entitled to any relief and the appointment made having been cancelled after a period of more than one year, the learned Writ Court and the Appellate Tribunal have committed an error.

4. Placing reliance on a Division Bench judgment of this Court reported in 2016 (3) P.L.J.R. 975, Savita Kumari vs. The State of Bihar & Ors., it was tried to be argued that after a period of one year, that also when the counseling was held after publication in the newspaper in spite of which the respondent No.10 did not appear, the writ Court should not have interfered into the matter.

5. We have considered the submissions made and we find that a complaint was made with regard to the appointment in



question and respondent No.10 was also one of the complainants. On the complaint filed, a detailed enquiry had been conducted and in the enquiry, it has come on record that the petitioner received 61.07 marks and was less meritorious than respondent No.10 who had received 65.17 marks and on due examination it was found that the call letter for the counseling was dispatched under U.P.C. on 13.11.2007 and, in fact, it was never served on the respondent No.10 and after due enquiry it has been found that ignoring the claim of a more meritorious person, a less meritorious candidate has been appointed.

6. Taking note of all these factors and based on these, the appellate authority and the writ Court have interfered into the matter and we find from the order passed by the appellate Tribunal that the Block Education Extension Officer, who was directed to investigate into the matter, submitted a report to say that no specific advertisement has been issued in the Hindi Daily “Aaj” calling for candidates to appear in the counseling. Merely a news item for counseling was published by the correspondent of the newspaper in a news column. It was not an advertisement or a notification issued with regard to counseling. Taking note of all these factors the learned Tribunal and a single Judge has interfered and in doing so, we are of the considered view, that no error has been committed



warranting re-consideration by us. It is a case where by issuing a notice under U.P.C. and without publishing an official notification of counseling in the Newspaper, the counseling was held. The so called news publication made, as is evident from the enquiry conducted, was only a news item published by the correspondent of the newspaper and not by the Department concerned.

7. That being the factual position, we are of the considered view that in directing for appointment of a more meritorious candidate in comparison to a less meritorious candidate, no error has been committed by the authorities concerned warranting interference.

8. Accordingly, finding no ground for interference, the appeal is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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