

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1197 of 2016
IN
Civil Writ Jurisdiction Case No. 18156 of 2013**

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Kumar Rishikesh Son of late Mohan Chourdary, resident of Village and Post office-Bajitpur, Police Station-Bajpatti, District-Sitamarhi. (Petitioner in CWJC No. 18156 of 2013)

.... Appellant

Versus

1. The State of Bihar through the Principal secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Superintendent of Education, Sitamarhi.
4. The Block Development Officer, Bajipatti, District-Sitamarhi.
5. The Block Education Officer, Bajipatti, district-Sitamarhi,
6. The Mukhiya, Gram Panchayat Raj, Bajitpur, Block+P.S. -Bajipatti, district-Sitamarhi.
7. The Panchayat Secretary, Gram Panchayat Raj bajitpatti, Block and Police Station-Bajipatti, District-Sitamarhi.
8. The Appellate Authorities, District Teachers Appointment (Engagement), Sitamarhi.
9. Sujit Kumar, Son of not known to the petitioner, POanchayat Teacher, Prarthmik Vidyalaya, Bantara (Kurmi Tola), resident of Village + Post Office - Bajitpatti, Police Station- Bajitpatti, District - Sitamarhi. (Respondents in CWJC No. 18156 of 2013)

.... Respondents

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Appearance:

For the Appellant/s : Mr. Md. Shamimul Hoda, Advocate.
For the Respondent/s : Mr. Shyam Kishore Sharma, GA 1.

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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: 05-12-2017

Heard learned counsel for the appellant and learned
counsel for the State.

Appointment of the appellant on the post of a Block
Teacher was annulled by the Block Development Officer on the
ground that his name did not even figure in the list of candidates



short-listed for Untrained Category. Despite that, the employment authority appointed him by ignoring the claim of a better candidate with higher percentage of marks.

This finding has been upheld even by the District Teachers Employment Appellate Authority and, therefore, a Writ Application was filed.

The learned single Judge, after taking into consideration the submissions made, had dismissed the Writ Application vide order dated 21.10.2013 by concluding as under:-

“As would be noted, the petitioner did not assail the order of his removal from service passed by the B.D.O. on 19.5.2007 for a period over three years and even when he did so in 2010 by filing his aforesaid writ petition, he had withdrawn the same without taking into account that none much less the Tribunal had any jurisdiction to set aside the earlier order of the B.D.O. who was in fact the prescribed authority under Rule 18 of the 2006 Rules till 25.8.2008.

Apart from that, it is not in dispute that the appointment of the petitioner was also made by ignoring a better candidate like Sujit Kumar who had much higher marks and thus, the order of the B.D.O. removing the petitioner from service on 19.5.2007 cannot be faulted either on fact or in law.”

The reasons given for dismissal of the Writ Application are cogent and valid as reflected in the earlier part of the order.

It that be so, there is no occasion for this Court to interfere with the order of the Writ Court as no rectification is required by this



appeal.

Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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