

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1285 of 2013
IN
Civil Writ Jurisdiction Case No. 9913 of 2011**

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1. Ratna Sahay Wife Of Jyoti Kumar Shrivastava Resident Of Nandan Medical Hall Hospital Road, Siwan, Police Station - Town Siwan, District - Siwan At Present Posted And Working As Panchayat Teacher In Govt. Primary School Sahuli Boys, Anchal - Hasanpura, District - Siwan

.... Appellant/s

Versus

1. The State Of Bihar Through The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Vikash Bhawan, Patna
2. The Director, Primary Education, Human Resources Development Department, Govt. Of Bihar, Vikash Bhawan, Patna
3. The Divisional Commissioner, Saran Division At Chapra
4. The District Magistrate, Siwan
5. The Deputy Development Commissioner - Cum - Chairman, District Education Establishment Committee, Siwan
6. The District Superintendent Of Education, Siwan, District - Siwan
7. The Block Development Officer, Hussainganj (Now Hasanpura), District Siwan
8. The Block Education Extension Officer, Hussainganj (Now Hasanpura), District - Siwan
9. The Mukhiya, Gram Panchayat Raj Sahuli, Block Hussainganj (Now Hasanpura), District - Siwan Null Null
10. The Panchayat Secretary Of Panchayat Sahuli, District Siwan
11. The Member, District Teacher'S Employment Appellate Authority, Siwan
12. Manju Kumari Daughter Of Laldhar Sharma, At Present Resident Of Village Rajendra Stadium, Shanti Nagar, Police Station Siwan, District - Siwan

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. UMESH KUMAR MISHRA
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 14-02-2017

Heard learned counsel for the appellant.

2. Challenge in the Letters Patent Appeal is to the
impugned order dated 18.03.2013 passed by the learned Single Judge



in C.W.J.C. No. 9913 of 2011.

3. The sole question which has been raised by the appellant in the present appeal is whether Manju Kumari, who is said to be married to a person from the State of Uttar Pradesh loses her right for consideration for appointment as a Panchayat teacher on the ground of lack of domicile.

4. The learned Single Judge has opined from the facts that the said Manju Kumari had done her schooling in Bihar, she did her Intermediate from Bihar and even did her graduation from Bihar. The other finding which is of significance, which should be taken note of, is reproduced herein under :

“Thus, in my view, the order of the Tribunal is neither legal nor sustainable. I may only add here that Tribunal has noted that respondent no. 12 Manju Kumari was married to a man whose family belongs to U.P. Again, the same error. The Tribunal did not give any finding as to where the husband of Manju Kumari was residing. Even, in this writ petition, no facts have been brought on record to show that either the husband of Manju Kumari (respondent no. 12) is working or living outside Bihar or for that matter, Manju Kumari herself, after her marriage, had left Siwan and is living outside the State. In the earlier writ proceedings, Manju Kumari had clearly stated that her marriage had taken place at Siwan and her husband is working in the State of Bihar. These two basic facts have neither been doubted nor challenged before this Court even in this writ petition.

Thus, in my view, the order of the appellate Tribunal holding that Manju Kumari was wrongly selected cannot be upheld. If that be so, then the result is the same as in the earlier writ petition. The order of the Tribunal has to be set aside and the



selection, as made originally by the Gram Panchayat of respondent no. 12 Manju Kumari, be upheld. Consequently, Manju Kumari would be liable to be reinstated and for the period for which she had worked earlier and after her reinstatement, she would be paid her due wages.”

5. If the finding of the learned Single Judge being what it is, mere marriage of Manju Kumari to a person in Uttar Pradesh cannot become a ground for removing her from the post of Gram Panchayat teacher.

6. The learned Single Judge, therefore, has committed no error in reaching the conclusion in favour of the private respondent no. 12.

7. The appeal of the appellant is the desperate effort to get foot-hold on the post, which rightfully belongs to Manju Kumari, after her due selection.

8. The appeal has no merit. It is dismissed as such.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Amin/-

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