

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1423 of 2014
IN
Civil Writ Jurisdiction Case No. 2132 of 2014**

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Sangeeta Kumari, W/O Shri Subhash Kumar Mauar, At + P.O. + P.S. + Prakhand -
Manihari, Distt - Katihar

.... Appellant

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The District Magistrate, Katihar
3. The Regional Deputy Director of Education, Purnea
4. The District Teacher Niyojan Appellate Authority, Katihar through its Secretary
5. The District Education Officer, Katihar
6. The District Programme Officer (Establishment), Katihar
7. The Block Education Officer, Prakhand - Manihari, Distt - Katihar
8. The Panchayat Secretary, Gram Panchayat Raj Manoharpur, Prakhand - Manihari, District - Katihar
9. The Mukhiya, Gram Panchayat Raj Manoharpur, Prakhand - Manihari, District - Katihar
10. The Headmaster, Utkramit Middle School, Vanipur Prakhand Manihari, Katihar.

.... Respondents

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Appearance :

For the Appellant/s	:	Mr. Rajendra Prasad Singh, Sr. Advocate Mr. Ravi Kumar Singh, Advocate Mr. Rishi Raj, Advocate
For the State	:	Mr. M. N. H. Khan, SC-1 Mr. Md. Naushaduzzoha, AC to SC-1
For Respondents 8 & 9	:	Mr. Dharendra Kr. Jha, Advocate Mr. Suresh Pd. Barnawal, Advocate
For Respondent No. 10	:	Mr. Qumrul Hoda, Advocate

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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: 28-04-2017

Heard learned Senior Counsel for the appellant, counsel
for the State, counsel for the Panchayat and counsel for respondent no.



10.

There is delay of 172 days in filing the memo of appeal, for which a condonation application has been registered as I.A. No. 7997 of 2014.

The delay is condoned.

I.A. No. 7997 of 2014 is allowed.

The writ application filed by the present appellant has been dismissed by the learned Single Judge vide his order dated 20th February, 2014. He refused to interfere with the finding and the decision of the District Teachers Employment Appellate Authority, which has held the appointment of the present appellant against the vacancy caused by resignation of one Puja Priyadarshi and that too after a complete ban on appointment for the 1st phase with effect from 20th March, 2008.

The learned Single Judge has taken note of the findings and even extracted the findings of the District Teacher Employment Appellate Authority and agreed with the reasoning as well as the conclusion reached therein that against the resignation of an appointment completed and made earlier, no person could be appointed against the said vacancy when the State Government had brought about a ban with effect from 20th of March, 2008. If a vacancy arose due to resignation of a teacher, that vacancy was



required to be carried over for the next phase of appointment and if the Panchayat in defiance of the mandate of the State Government went ahead and made appointment, the said appointment is out and out illegal even otherwise.

The plea taken by the Panchayat that they had no information, is a lame duck excuse and the Panchayat had no authority or power to make such appointment on its own discretion and in violation of the ban which was in place with effect from 20th March, 2008 when the appointment of the appellant was made almost two years thereafter on 01.04.2010.

The Court, therefore, does not find anything amiss in the concurrent finding of fact of the Tribunal as well as the learned Single Judge, which is required to be corrected in appeal.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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