

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.203 of 2014
IN
Civil Writ Jurisdiction Case No. 13499 of 2013

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Sudha Kumari, W/O Sri Shambhu Sharan Goit and Daughter of Sri Ram Narayan
Yadav Resident Of Village- Hudra, P.S. Khutauna, District- Madhubani

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Human Resources Development, Govt. of Bihar, Patna
3. The District Collector, Madhubani
4. The District Programme Officer, Madhubani
5. The Block Development Officer, Khutauna, P.S. Khutauna, Distt.- Madhubani
6. The Block Education Extension Officer, Khutauna, P.S. Khutauna, Distt.- Madhubani
7. The Mukhiya, Gram Panchayat Raj, Jhanjhapatti Asha, P.S. Khutauna, District- Madhubani
8. The Panchayat Secretary, Gram Panchayat, Jhanjhapatti Asha, P.S. Khutauna, District- Madhubani
9. The Headmaster of the Upgraded Middle School, Bhajnaha, Under Gram Panchayat Raj, Jhanjhapatti Asha, P.S. Laukaha, Distt.- Madhubani
10. Rubi Kumari, Wife of Sri Sanjeev Kumar and daughter of Sri Surya Narayan Gurmaita, Resident of Village- Chaturbhuj Piprahi, P.S. Laukaha, District- Madhubani

.... Respondents

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Appearance :

For the Appellant/s	:	Mr. Rajendra Pd. Singh, Sr. Advocate Mr. Rajeev Kumar Singh, Advocate Mr. Rajesh Kr. Singh, Advocate
For the State	:	Mr. Dhurjati Kr. Prasad, GP-14
For Respondent No. 10	:	Mr. Uma Kant Shukla, Advocate Mr. Rajesh Ranjan No. 1

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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: 15-03-2017

Appellant was the petitioner in C.W.J.C. No.

13499 of 2013. Her writ application was dismissed by the



learned Single Judge vide order dated 17.07.2013 on the ground that no case was made out to interfere with a detailed order passed by the District Teachers Employment Appellate Tribunal, which has gone into the dispute relating to non-appointment of respondent No. 10, who had more marks and more merit than the present appellant.

The Tribunal did find the conduct of the Gram Panchayat in question to be acceptable and the explanation offered by the Panchayat about communication to the candidate by UPC has also been negated to be unauthentic.

This is not the first case of its kind. 100's of cases have come before this Court where persons with training, more merit and more marks are edged out from zone of consideration by not allowing them to participate in the counselling or not informing them about counselling. People with less merit and lesser marks come to be appointed for a 'consideration' and such decisions have nothing to do with merit.

This is one of those cases where the Tribunal found such an allegation to be correct, and, therefore, the learned Single Judge refused to interfere with the order of the Tribunal, which had a fall out on the continuance of the present appellant as a Panchayat Teacher.



Learned Senior Counsel for the appellant submits that there seems to be a serious omission and a legal flaw in the order of the Tribunal. Earlier, the authorised appellate authority was the Block Development Officer. He in his first round of enquiry did not find anything amiss. Public petitions thereafter were filed before the District Magistrate. The District Magistrate ordered re-inquiry into the matter where the wrong doing on behalf of the Panchayat was thrown up. When such an order or decision of the Block Development Officer emerged, that was challenged in a writ application, but finding resistance from the Court the same was permitted to be withdrawn and then the matter travelled to the Tribunal.

The argument, which is sought to be raised now by the learned Senior Counsel that the order of the Block Development Officer could not be reviewed, is not entertainable now at this stage, keeping in view the conduct as well as the order which came to be passed in the writ application, where the decision of the Block Development Officer was challenged. The choice of going to the Tribunal was of the appellant. Now she cannot shy away from the adjudication after surrendering to the jurisdiction on her own volition.

The appeal, therefore, is dismissed. The order



of the learned Single Judge to that extent cannot be said to be erroneous.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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