

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17526 of 2011

- =====
1. Rajesh Kumar, Son of Sri Rambalak Kumar, R/O-Village-Farda, P.O.-Farda Shivrampur Tola, P.S.-Nayaram Nagar, Distt-Munger.
 2. Pankaj Kumar, Son of Late Sachhidanand Yadav, R/O-Village-Farda, Prem Tola P.S.-Nayaramnagar, Distt-Munger.

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary, Primary and Secondary Education Govt. of Bihar, New Secretariat, Patna.
2. The Director, Primary and Secondary Education Govt. of Bihar, New Secretariat, Patna.
3. The District Magistrate Munger Fort Area, Munger .
4. The Dy. Development Commissioner Munger. Fort District-Munger.
5. The District Superintendent of Education Munger, Fort Area, Munger.
6. The Mukhia, Parham Panchayat, Jamalpur Block Munger.
7. The Member District Teacher Employment Appellate Authority Munger.
8. Ranbir Kuamr Singh, Son of Late Ramlakahn Singh, R/O-Village-Farda, Sitarampur Parham, Munger.
9. Afshan Khurshid, Headmistress, Panchayat Siksha, Maktab, Parham, Munger.

.... Respondents

=====

Appearance :

For the Petitioners : Mr. Suman Kuman Mishra, Advocate.
For the State : Mr. Anirban Kurdu, S.C. 24 and Mr.
Sudhanshu Shekhar, A.C. to S.C. 24.
For the Pvt. Respondent : Mr. Rajeev Kumar Singh, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
CAV ORDER

4 31-08-2017 The petitioner has filed the present writ petition, seeking direction upon the respondents to appoint the petitioner on the post of Panchayat Teacher in Padham Panchayat under Jamalpur Block, within the district of Munger, in place of one Ranvir Kumar Singh, who has wrongly been appointed by the respondents, and further to quash the order dated 07.02.2011



passed in Appeal No. 13 of 2009 by the District Teachers Employment Appellate Authority Munger, whereby the said District Appellate Authority has rejected the claim of the petitioner regarding his appointment.

In short, the case of the petitioner is that in the concerned Gram Panchayat appointment of five (5) Shiksha Mitra was made in the year 2003, there were three (03) posts available under unreserved category. The Panchayat Niyojan Samiti initially made selection of three persons, namely, Mukesh Kumar, Ranjan Kumar and Ranvir Kumar Singh. One of the selected candidates namely, Mukesh Kumar, did not join the post, thereafter one Afshan Khursid came to be selected for the post of Panchayat Shiksha Mitra. The grievances of the petitioners are that as per the merit list petitioner no. 01 was placed at Serial No. 03, so he ought to have been appointed in place of Ranvir Kumar Singh, and since the petitioner no. 02 was placed at Serial No. 04, therefore in case of non-joining of said Mukesh Kumar, petitioner no. 02 ought to have been selected & appointed. The Panchayat Selection Committee made appointment of Ranvir Kumar Singh and Afshan Khursid on the post of Shiksha Mitra, which was totally illegal.

On the complaint made by the petitioner no. 01, the



Deputy Development Commissioner Munger, inquired into the matter and submitted his enquiry report dated 02.12.2008 to the District Magistrate, Munger, indicating therein that Ranvir Kumar Singh (Respondent No. 08) had got his appointment illegally thus made recommendation for termination of his appointment. The District Magistrate, Munger, directed the District Superintendent of Education Munger, who in turn directed the concerned Mukhiya to make removal of respondent no. 08 from the post of Panchayat Teacher. Accordingly, the concerned Mukhya vide Letter No. 03 dated 02.04.2009 made removal of respondent no. 08. Thereafter, the District Superintendent of Education made a direction to appoint one Krishan Nandan Sharma against the post fallen vacant by removal of respondent no. 08.

The petitioner no. 01 had approached this Court in C.W.J.C No. 3108 of 2009, which came to be disposed of with a direction to approach the District Teachers Employment Appellate Authority Munger. The petitioner no. 01 filed an appeal, accordingly, before the District Appellate Authority seeking his appointment since he having higher marks than respondent nos. 07 & 08.

The District Teachers Employment Appellate



Authority Munger, vide order dated 07.02.2011, passed in Appeal No. 13 of 2009, rejected the claim of the petitioners herein besides one Sanju Kumar, holding therein that direction for appointment in favour of the appellant therein, on the post of Panchayat Teacher is not permissible under the law.

A counter affidavit has been filed on behalf of the respondent no. 05 bringing relevant circulars contained in Letter No. 07 dated 10.11.2006 issued from the office of the Director, Primary Education, Bihar, Patna. The said letter of the Director, Primary Education, clearly indicates that after coming into effects of Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules 2006, appointment on the post of Panchayat Shiksha Mitra is not permissible after 01.07.2006. The said letter further indicates that if on enquiry any appointment of Shiksha Mitra is found illegal then removal can be made but no fresh appointment of Shiksha Mitra can be made against the said post.

Considering the submissions advanced on behalf of the petitioner and the respondent-State, I am also of the view that the grievance of the petitioner in respect of his non-selection as Panchayat Shiksha Mitra, and since the post of Shiksha Mitra has already been abolished w.e.f. 01.07.2006,



when the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules 2006, came into force, therefore, the claim of the petitioner to be appointed to the post of Panchayat Teacher is not sustainable in the eye of law, especially in view of the decision rendered in the case of Smt. Renu Kumari Pandey (Supra).

In the case of Smt. Renu Kumari Pandey-versus- The State of Bihar & others, reported in 2011 (4) PLJR 297, a Division Bench of this Court has held thus ;

“17. Coming to the second issue, we are of the opinion that the Rules statutory in nature and have to be implemented in letter and spirit. under Clause (i) of Rule 20 of the Rules all earlier resolutions, orders, directions issued in respect of employment of Panchayat Shiksha Mitra are repealed. Consequently, the posts of Panchayat Shiksha Mitra stood abolished. Thereafter, no person can be employed as Panchayat Shiksha Mitra; nor can there be a deemed employment as Panchayat Shiksha Mitra; nor can there be a deemed absorption in the service as Panchayat Shikshak by operation of Rule 20 (iii) of the Rules. In our opinion, even in a case where a person has a legitimate grievances in respect of his or her non-selection as Panchayat Shiksha Mitra at the relevant time or non-continuance as Panchayat Shiksha Mitra, such person cannot be deemed to have



been appointed as Panchayat Shiksha Mitra; nor can he/she be deemed to have been employed as Panchayat Shiksha Mitra as on 1st July 2006; nor can such person be deemed to have been absorbed in service as Panchayat Shikshak under the Rules”.

Therefore, in my considered opinion, the order of the Appellate Authority challenged here under contained in Annexure-4, so far it relates with rejecting the claim of the petitioners to be appointed on the post of Panchayat Teacher, does not require any interference, thus the order of the District Appellate Authority is partly affirmed to the extent as indicated above.

Therefore, this writ application is, accordingly, dismissed.

U.K./-

U			
---	--	--	--

(Sudhir Singh, J)

