

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1955 of 2015
IN
Civil Writ Jurisdiction Case No. 8423 of 2011**

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1. Neha Kumari, D/o Sri Pramanad Prasad Shrivastava, Resident of village- Bhagyanagar, P.S. + Block-Kalyanpur, District- East Champaran at Motihari.
 2. Tarun Kumar, S/o Sri Kanhaiya Lal Prasad, Resident of Village- Pratap Patti, P.O. Karnaul, P.S. + Block- Sahebganj, District- Muzaffarpur.
 3. Harendra Prasad Shah, S/o Late Ayodhya Shah, Resident of Village+ P.O. Brindavan, Mirchaiya, P.S. + Block- Kalyanpur, District- East Champaran at Motihari.
 4. Praveen Kumar, S/o Rajendra Prasad Yadav, Resident of Village- Pipra Nanhakar, P.O. Shambhuchak, P.S. + Block- Kalyanpur, District- East Champaran at Motihari,
 5. Pankaj Kumar Keshri, S/o Ravindra Tiwari, Resident of Village- Kaithwalia, P.O. Darmaha, P.S. + Block- Kalyanpur, District- East Champaran at Motihari.
 6. Pushplata Kumari, D/o Bhola Mishra, Resident of Village+ P.O. Ahiman Chapra, P.S. + Block- Kalyanpur, District- East Champaran.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Human Resources Development Department, Govt. of Bihar, Patna.
4. The District Magistrate, East Champaran at Motihari.
5. The District Teacher Employment Appellate Authority, East Champaran at Motihari.
6. The Member, District Teacher Employment Appellate Authority, East Champaran at Motihari.
7. The District Superintendent of Education, East Champaran.
8. The Block Development Officer, Kalyanpur Block, District- East Champaran.
9. The Block Education Extension Officer, Block- Kalyanpur, District- East Champaran.
10. The Mukhiya, Gram Panchayat Raj Pakri Dixit, Block- Kalyanpur, District- East Champaran.
11. The Panchayat Secretary, Gram Panchayat Raj Pakri Dixit, Block- Kalyanpur, District- East Champaran.
12. Randhir Kumar Singh, S/o Sri Sheopujan Singh, Resident of Village- Math Govardhan, P.S. Kalyanpur, District- East Champaran at Motihari.
13. Rustam Ali, S/o Md. Asgar Ali, Resident of Village- Nahakar, Chapravali, P.S. Kalyanpur, Distt- East Champaran at Motihari.
14. Devendra Kumar, S/o Jai Narayan Mahto, Resident of Village+ P.O. Kalyanpur Belwa, P.S. Chakiya, Distt- East Champaran at Motihari.
15. Neetu Kumari, W/o Gajendra Kumar Singh, Resident of Village- Darmaha Tola Bhusaulwa, P.O. Rajpur, P.S. Kesharia, District- East Champaran at Motihari.
16. Brajkishore Kumar, S/o Harishchandra Kumar, Resident of Village + P.O. Dilwarpur, P.O. Kesharia, District- East Champaran at Motihari.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Rajendra Pd. Singh, Sr. Advocate



Mr. Mukesh Kumar Singh
For the Respondent/s : Mr. Shiv Kumar, AC to GA 3

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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: 28-01-2017

Delay of four days is condoned. Limitation Petition, which is IA No.8737 of 2015, is allowed.

The writ application was filed by all the six appellants before the High Court vide CWJC No.8423 of 2011 when the District Teachers Employment Appellate Authority, East Champaran at Motihari set aside the appointment of these appellants vide order dated 7.4.2011 in Appeal Case No.610 of 2010.

Appointment on the post of Panchayat Teacher was initiated by way of an advertisement issued in the year 2006 for the Gram Panchayat Raj Pakri Dixit. Dates of counselling were fixed. Counselling was held. Thereafter, verification of the application and certificates was done. Since the private respondents, especially 12 to 16 in the writ application, had higher marks than those appellants, they were sanguine that they would be appointed but to the shock and their horror they discovered that these appellants with lesser marks and merit have been appointed by manipulating the system by the Mukhiya as well as the Panchayat Secretary of the



Gram Panchayat.

The private respondents thereafter moved the Block Development Officer i.e. the appellate authority, who after enquiry and verifying the documents, did find the claim of the private respondents to be valid and directed appointment of the private respondents in place of the appellants here. The matter thereafter travelled to the District Teachers Employment Appellate Authority, which held in similar terms as the B.D.O. Therefore, the writ application.

A reading of the order of the learned Single Judge clearly establishes the misconduct and manipulation, which was practiced by the Gram Panchayat headed by the Mukhiya and ably supported by the Panchayat Secretary in the nefarious activities. This Court is not required to reproduce all those details but the sum essence of what had emerged can be understood by reading paragraph 25 of the said decision, which reads as under :

“25. Before I part with, in the facts and circumstances of the case, I consider it appropriate to direct the Principal Secretary, Human Resources Development Department, Government of Bihar, the Director, Primary Education, Human Resources Development Department, Government of Bihar as well as the Principal Secretary, Panchayat Raj Department, Government of Bihar to ensure that the action initiated against the concerned Mukhiya and Panchayat Secretary of the Gram Panchayat, criminal or civil, is brought to a logical end within a reasonable time,



preferably, within a period of six months from the date of receipt/ production of a copy of this order.”

If the conduct of the Mukhiya and the Panchayat Secretary has been commented upon strongly by the learned Single Judge and action has been directed to be initiated both civil and criminal kind against them, the argument of the learned senior counsel that their appointment should not be disturbed is an unacceptable position because what is mired in illegality remains an illegality. This position has emerged from the findings at the level of the Block Development Officer and later on by the forum i.e. the District Teachers Employment Appellate Authority. This led to decisive intervention and removal of these appellants.

In the circumstances as above, the order of the learned Single Judge does not require to be interfered with because it will have an effect of reviving an illegality in such appointment which the Court of law is not expected to do.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.1.2017
Transmission Date	NA

