

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1257 of 2013
IN
Civil Writ Jurisdiction Case No. 13290 of 2010**

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1. Shyam Kumar son of Shri Janak Yadav resident of village Gorawana, Police Station-Silao, District-Nalanda

.... Appellant/s

Versus

1. The State of Bihar through the District Magistrate, Nalanda at Bihar Sharif.
2. The District Superintendent of Education Nalanda at present District Education Officer, Nalanda at Bihar Sharif.
3. The Block Education Extension Officer, Silao, Nalanda.
4. The Block Development Officer, Silao, Nalanda.
5. The Regional Deputy Director of Education, Patna Commissionery, Patna.
6. The Sub-Divisional Education Officer, Hilsa, Nalanda.
7. Sunil Kumar @ Captain Sunil Singh Ex Mukhiya, Gram Panchayat Raj Paki Gorawana, Block- Silao, Nalanda.
8. Member, Zila Shikshak Niyojan Appealeya Pradhikar, Nalanda, Bihar Sharif.
9. Ush Devi w/o Sunil Kumar @ Captain Sunil Singh present Mukhiya of Gram Panchayat Raj Paki Gorawana.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Prasad, Adv.

For the Respondent/s : Mr. Ajay, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 19-06-2018

Challenge in the present Letters Patent Appeal is to the order dated 07.08.2013 passed by the learned writ Court in Civil Writ Jurisdiction Case No.13290 of 2010.

2. By the impugned order the learned writ Court has refused to interfere with the order passed by the District Teachers Employment Appellate Tribunal, Nalanda at Bihar Sharif (hereinafter referred to as the “Appellate Tribunal”) in Appeal No.1630 of 2009. The learned writ Court found that the



Tribunal has recorded a categorical finding that the writ petitioner was engaged /appointed on the post of Panchayat Shiksha Mitra at the cost of other better candidates as he happened to be the brother of the Mukhiya who have been making such appointments. It was also found from the affidavit filed on behalf of the respondent no.8 that the so called Intermediate degree which was produced on behalf of the petitioner to support his eligibility qualification was also found fake after verification. The learned Tribunal as well as the learned writ Court found that such kind of fraudulent engagement/appointment and its continuance on a public post cannot be certified to be an order on the solitary ground that under no circumstances the appointment of the petitioner can be gone into by the Appellate Tribunal.

3. The learned writ Court held that by interfering with the order passed by the appellate authority the Court would in fact be putting its seal of approval to an illegal appointment which was apparent from the records.

4. While assailing the impugned order, learned counsel for the petitioner-appellant submits that the appellate authority had no jurisdiction to consider the challenge to the appointment of the petitioner after about eight years. It is submitted that the Tribunal has acceded its jurisdiction in entertaining such challenge at a belated stage.

5. Having heard learned counsel for the petitioner-appellant and upon perusal of the records we find that learned writ Court has rightly refused to interfere with the order of the learned Appellate Tribunal. Once those findings are there, we are of the considered opinion that any appointment obtained by playing fraud of the nature present in this case cannot be allowed to be continued only because eight years after such appointments the fraud has been discovered. In our considered opinion, the writ Court has rightly refused to interfere with the



impugned order of the appellate Tribunal.

6. The Letters Patent Appeal has no merit. It is, accordingly, dismissed.

(Rajendra Menon, CJ)

Arvind/R.R.Ojha

(Rajeev Ranjan Prasad, J)

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