

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1592 of 2018

IN

LPA 138 of 2014

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Uday Kumar Sharma, son of Sri Parmeshwar Sharma, resident of Village and P.O. Pondil, Police Station- Kurtha, District Arwal.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sri R. K. Mahajan, I.A.S. presently posted as Principal Secretary, Education Department, Government of Bihar, Patna.
3. Sri. Vashist Shukla, presently posted as Member District Teacher Appointment Appellate Authority, Arwal District Arwal.
4. Rina Kumari presently posted as District Education Officer, Arwal District Arwal.
5. Sri Parsuram Singh, District Programme Officer (Establishment), Arwal, District Arwal.
6. Sri Mohan Choudhary, presently posted as Block Education Extension Officer, Sonbhadra, Suryapur Block, District-Arwal.
7. Renu Devi, Mukhia, Gram Panchayat Chamandi, P.O. Pondil, P.S. Kurtha, District-Arwal.
8. Amrendra Singh presently posted as Panchayat Secretary, Gram Panchayat Pondil, P.O. Pondil, P.S. Kurtha, District Arwal.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy, Adv.

For the Respondent-State : Mr. Ram Vinay Prasad Singh, AC to GA-XII.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 01-10-2018

The writ petitioner questioned an order passed by the Member, District Teacher Employment Appellate Authority (hereinafter referred to as the 'Appellate Authority') on a case filed by another person by the name of Uday Singh who had questioned the appointment of one Ashok Kumar. The 'Appellate Authority' allowed the case in favour of applicant Uday Singh while quashing



the appointment of Ashok Kumar.

According to Mr. Gyanand Roy, learned counsel appearing for the petitioner, even the petitioner had filed an application before the 'Appellate Authority' but chose to withdraw the same on directions by this Court on the writ petition.

We take notice of the order passed on the writ petition dated 08.12.2011 which confirms that it is not on the direction of the Court that the petitioner chose to withdraw his case from the 'Appellate Authority' rather he sought permission from this Court in the pending writ petition to withdraw his case because according to the petitioner, once an order had already been passed by the 'Appellate Authority' on 23.11.2010 in Case No.32 of 2009-10 filed by Uday Singh, Respondent no.8 in the appeal, the District Teacher Appellate Authority would not be reviewing his order.

In other words even before the 'Appellate Authority' could test the inter-party merits in between the petitioner and the appointee, that this petitioner chose to withdraw the case and instead relied upon the order passed in the case of Uday Singh to espouse his case before this Court in CWJC No.20314 of 2011 which was heard analogous with the writ petition bearing CWJC No.896 of 2012 filed by the aggrieved appointee Ashok Kumar, the person whose appointment had been set aside by the 'Appellate Authority'.



The claim advanced on behalf of the petitioner for addition of merit points was rejected by the learned Single Judge and though some direction had been issued in respect of others but in so far as the present petitioner is concerned, no specific direction was issued.

In the circumstances noted where the petitioner has chosen to withdraw his challenge before the ‘Appellate Authority’, he can neither pursue the matter on basis of order passed in collateral proceeding and even on merits where the Division Bench has issued no direction, the contempt application is held misconceived and is dismissed accordingly.

(Jyoti Saran, J)

(Nilu Agrawal, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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