

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 981 of 2015

=====

Sanjay Bosak, Son of Sri Prema Nand Bosak, resident of Village - Panasi, P.O. -
Panasi Hat, P.S. Paharkatta, Block - Pothiya, District - Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna, Bihar.
2. The District Magistrate, Kishanganj, Bihar.
3. The District Teacher Appointment Appellate Authority, Kishanganj through its Member.
4. The District Programme Officer (Establishment), Kishanganj, District - Kishanganj.
5. The Block Development Officer, Pothiya, District - Kishanganj.
6. The Block Education Officer, Pothiya, District - Kishanganj.
7. Mr. Pradeep Kumar Bosak, Son of Sri Kisto Bosak, resident of village - Panasi, P.O. - Panasi Hat, P.S. Paharkatta, Block - Pothiya, District - Kishanganj.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 29-01-2018

Heard learned counsel for the petitioner and the State.

2. Despite valid service of notice on respondent no. 7,
he has chosen not to appear.

3. The petitioner has moved the Court for the following
relief:

*“That the present writ application is being
filed for issuance of an appropriate writ/order or*



direction and for setting aside the order dated 25.10.2013 contained in memo no. 168 of the respondent no. 3 whereby and where under the Appellate Authority without any notice to this petitioner and clear disregard of law and its powers has reviewed its earlier order dated 18.06.2011 contained in memo no. 663 and/or for any other order or orders to which the petitioner may be entitled to in the facts and circumstances of this case.”

4. The relevant facts of the case are that the petitioner has filed Case No. 37 of 2010 and the respondent no. 7 had filed Case No. 376 of 2011, before the District Teachers Employment Appellate Authority, Kishanganj (hereinafter referred to as the ‘Authority’). The same was decided by a detailed order dated 18.06.2011, in favour of the petitioner. Aggrieved by the same, the respondent no. 7 had moved this Court in C.W.J.C. No. 17767 of 2011. However, during the pendency of the said writ application, the Authority seems to have re-heard the case and in fact, reviewed its earlier decision and allowed the case in favour of the respondent no. 7, by order dated 25.10.2013, which is under challenge in the present writ application.

5. Learned counsel for the petitioner submitted that the review by the Authority itself was beyond jurisdiction as power of review on a statutory Authority has to be specifically conferred by the statute, which is lacking in the present case and the same is based on an incorrect fact that the writ petition filed by the



respondent no. 7 had been withdrawn whereas the position is that the same was withdrawn only on 25.07.2017.

6. Learned counsel for the State submitted that the stand taken by learned counsel for the petitioner cannot be countered legally.

7. Having considered the matter, the Court finds that the order impugned cannot be sustained. As has rightly been submitted by learned counsel for the petitioner, power of review has to be conferred specifically by the statute on any Authority or person who exercises power in terms of the said statute. In the present case, the Authority itself is statutory and the orders passed have to be in conformity with the jurisdiction conferred on the Authority by such statute. There being no provision for review, the only option before the respondent no. 7 was either to move before the State Appellate Authority or in the alternative directly come to the High Court under its writ jurisdiction under Article 226 of the Constitution of India. Moreover, the Authority has wrongly stated that the writ filed by the respondent no. 7 was withdrawn. Once the respondent no. 7 was already agitating the matter before the High Court, the Authority was required not to entertain any further plea of the respondent no. 7. Thus, in any view of the matter, the Authority seems to have exceeded its jurisdiction and has passed the order, which is illegal.

8. For the reasons aforesaid, the writ petition stands



allowed. The order dated 25.10.2013 passed by the Authority in Case No. 37 of 2010 along with Case No. 376 of 2011, is set aside. The same shall automatically lead to revival of the original order passed by the Authority dated 11.06.2011 in the said cases and consequences shall follow.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	

