

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3216 of 2010**

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Raj Kumar Raju, S/O Shyam Nandan Thakur, R/O Village + P.O. Taiyabpur, P.S. Desri, Distt.- Vaishali

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Deptt., Bihar, Patna
2. The Director, Primary and Adult Education, Govt. of Bihar, Patna
3. The District Magistrate, Vaishali
4. District Education Officer, Vaishali
5. The District Superintendent of Education, Vaishali
6. The Block Development Officer, Desri, Distt.- Vaishali
7. The Secretary Cum Panchayat Sewak, Gram Panchayat Raj, Bhikhanpura, Desri, Distt.- Vaishali
8. The Head Master, Madhya Vidyalaya Taiyabpur, P.S. Desri, Distt.- Vaishali
9. The Mukhia, Gram Panchayat Raj, Bhikhanpura, Taiyabpur, P.S. Desri, Distt.- Vaishali

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Pramod Mishra, Advocate

For the Respondent/s : Mr. Avinash Shekhar, AC to SC-6

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

**ORAL JUDGMENT**

**Date: 23-08-2018**

It appears from order dated 08.04.2010 that this case was directed to be listed along with C.W.J.C. No. 3350 of 2010. referring to the aforesaid writ application, the impugned order dated 25.01.2010 was stayed by this Court.

2. C.W.J.C. No. 3350 of 2010 was finally disposed of vide order dated 23.10.2013 by a Co-ordinate Bench of this Court and the impugned order dated 25.01.2010 was quashed. The relevant part of order dated 23.10.2013 is quoted herein below:

“Having considered the submissions of the parties, it appears that the impugned order was



passed on 25.01.2010 by the Block Development Officer, Desari. After amendment of the Rules, such power has now been vested with the Tribunal constituted under the Rules. The Block Development Officer is not the appropriate authority. There is agreement at Bar that Panchayat Samiti is the Appointing Authority in the case of the petitioner who was subsequently absorbed as Prakhanda Teacher. If any such fraud was played by the petitioner, the Appointing Authority could have taken appropriate steps/action against the petitioner and aggrieved thereby, the petitioner could have filed an appeal before the Tribunal. In the case at hand, the order impugned has not been passed by the Appointment Authority. The action has been taken by the Block Development Officer who has no role to play after the enforcement of the amended Rules in 2008. Mr. Shivendra Kishore has relied on an order passed by this Court (Annexure-7) wherein interference was made with the impugned order on the said ground of lack of jurisdiction. Even otherwise, from perusal of the provisions of the Rules, it is more than explicit that the Block Development Officer is not the authorized officer/authority to pass any such order.

For the reasons aforementioned, this Court is satisfied that the present application merits to be allowed. It is accordingly allowed. The order contained in letter dated 25.1.2010 (Ananexure-1) is quashed and set aside. The order present shall, however,



not preclude the appropriate authority to proceed against the petitioner, if the facts so warrant, in accordance with law.”

3. Considering the aforesaid, the writ application is allowed in the same terms and conditions, C.W.J.C. No. 3350 of 2010 was allowed vide order dated 23.10.2013.

**(Anil Kumar Upadhyay, J)**

Uday/-

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