

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19670 of 2011

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MHD. INTEYAZ SON OF MOHD. ISLAM RESIDENT OF VILLAGE-
HATI, P.S. + BLOCK BIRAUL, DISTRICT-DARBHANGA.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The District Magistrate, Darbhanga.
3. The District Superintendent Of Education, Darbhanga, District-Darbhang.
4. The S.D.E.O., Biraul, District-Darbhang.
5. The Block Development Officer, Biraul, District-Darbhang.
6. The Panchayat Secretary, Gram Panchayat Raj, Ladaho, P.S.-Biraul, District-Darbhang.
7. The Mukhiya, Gram Panchayat Raj, Ladho, P.S.-Biraul, District-District.
8. The District Teacher Employment Appallate Tribunal, Bibhadpur Laheriasarai, Darbhanga.
9. The Block Education Officer, Biraul, District-Darbhang.
10. Ganesh Pandit Son Of Sri Kantir Pandit Resident Of Village-Ladaho, P.S.-Biraul, District-Darbhang.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Jha
For the Respondent/s	:	Mr. Kameshwar Kumar, advocate,
	:	Mr. Arbind Kumar, AC to G.P.17, advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

- 3 23-08-2018 1. Vide order dated 9.4.2012 it was indicated that the decision in C.W.J.C. No. 5517 of 2010 is still pending for final disposal. Accordingly, order was passed on 9.4.2012 for this case after disposal of C.W.J.C. No. 5517 of 2010.
2. C.W.J.C. No. 5517 of 2010 was finally disposed of vide order dated 30.01.2013. The order dated 30.01.2013 is reproduced herein for ready reference:-

“ Heard learned counsel for the parties.

Petitioner wants quashing of the order



dated 24.2.2010 passed by the District Teachers Employment Appellate Authority, Darbhanga in complaint Case No. 477 of 2009.

This proceeding was initiated at the behest of private respondent No.10, who was an applicant for appointment on the post of a Panchayat Teacher in what is known as Gram Panchayat Raj Ladaho in Biraul Block, in the district of Darbhanga. The matter relates to the appointment in the year 2006.

The tribunal heard the parties, perused the record and came to a considered opinion that only with the object of defeating the claim of the complainant i.e. private respondent No.10, who had better marks than the present petitioner, interpolation was done in his date of birth to show that he was less than 18 years of age. The tribunal has opined and rightly so that when the private respondent had higher marks and had all the possibility of selection why he would disqualify himself by making interpolation in the date of birth to show that he is ineligible being less than 17



years of age when admittedly the correct date of birth had been noted, which indicates that the private respondent was 29 years 5 months and 15 days of age.

Allegations are also there that there was reason for making interpolation at the level of the Mukiya or the Panchayat Secretary for a consideration obviously because there was no other way they could have accommodated the petitioner at the cost of the private respondent.

Counsel for the petitioner submits that in terms of 2006 Rules there is one week provided for raising objection with regard to the merit list published by the Panchayat. Since there was no objection within the specified time, the private respondent lost his right to raise any objection or challenge the selection by moving the tribunal. The tribunal had illegally entertained the complaint and set aside his appointment.

With due respect to the learned counsel for the petitioner the time fixed therein no doubt gives an opportunity to a candidate to raise



objection at the first instance. But if such an objection was not raised it does not mean a citizen loses his right to challenge such decision if it is vitiated by fraud, which is the present case. Interpolation of such kind does not come to the notice of a person affected immediately and it is only on deeper investigation that the factual aspects emerge.

Since there is no time frame fixed as such for challenging such kind of actions or illegality in appointment under 2006 Rules, the contention of the counsel for the petitioner is hereby rejected. If the selection is vitiated by fraud and interpolation, which is the finding of the tribunal, it is not required to be interfered with.

Writ is dismissed in the circumstances indicated above.”

3. In view of the decision passed by the Co-ordinate Bench of this Court in C.W.J.C. No. 5517 of 2010 order dated 30.01.2013 the writ petition deserve to be allowed and is accordingly allowed and is order contained in Annexure-16 passed purportedly in the light of the C.W.J.C. No.5517 of 2010



cannot sustain and accordingly the same is quashed.

4. The respondents are hereby directed to implement the order of District Teacher Employment Appellate Tribunal. So far as the decision as to validity of the Appellate Authority in Appeal in 477 of 2009 is concerned, the respondents are required to implement the decision of the tribunal, if not already implemented within a maximum period of 60 days from the day of receipt/production of a copy of this order.

5. With the aforesaid the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

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