

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.258 of 2016

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1. Ravi Ranjan Kumar Son of Balmiki Singh Resident of Village-Ghonghsa,
P.s Halsi, Distt Lakhisarai Petitioner

Versus

1. The State Of Bihar Through Principal Secretary, Human Resources
Department Govt. Of Bihar Old Secretariat,, Patna
 2. The Secretary, Human Resources Department Govt. Of Bihar Old
Secretariat,, Patna null null
 3. The Chairman , Appellate Tribunal , Jamui ,Distt Jamui.
 4. The District Education Officer, Jamui.
 5. The Block Education Officer, Sikandar Jamui.
 6. The Panchayat Sachiv ,Gram Panchayat Raj Mahadeo Simariya, P.s
Sikandra, Distt Jamui.
 7. The Mukhiya, ,Gram Panchayat Raj Mahadeo Simariya, P.s Sikandra,
Distt Jamui.
 8. Shambhu kumar son of Yadu Nandan Singh resident of Village-
Singhpur, P.s Halsi, Dist Lakhisarai.
 9. Amit Kumar Singh son of Sada Nand Singh resident of Village- Kurshail,
Police Station- Mahalgaon, District Araria.
 10. Rajesh kumar son of Awadhesh Singh Resident of Village- Saithana ,
P.s Halsi, distt- Lakhisarai.
 11. Chandan kumar son of Surendra Singh Resident of Village-Mahadeo
Simariya, P.s Sikandar ,Distt Jamui Respondents
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Appearance :

For the Petitioners : M/S Mahasweta Chatterjee Shambhu Sharan
Kumar, Advs.

For the Respondents : Mrs. Archana Meenakchi, GP VI with
Mr. Prabhat Ranjan, AC to GP VI

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

2 19-02-2018 Heard the learned counsel for the petitioners and the
learned counsel appearing for the State.

Earlier the petitioners have approached this Court by
way of filing C.W.J.C. No. 2952 of 2014. The writ Court
dismissed the petition on the ground of delay. The matter was
taken to Letters Patent Appeal Court in L.P.A. No. 826 of 2014.



Vide order, dated 18.12.2014, the Letters Patent Appeal Court passed the following order :

“By his writ petition, made under Article 226 of the Constitution of India, which gave rise to CWJC No. 2952 of 2014, the appellant herein, as writ petitioner, has put to challenge the validity of merit list, dated 05.08.2010, which did not include the name of the petitioner-appellant for the post for Panchayat Teacher.

By order, dated 07.03.2014, while dismissing the writ petition, learned single Judge of this Court has pointed out that since the selection process was of the year 2010, and the petitioner-appellant could have taken recourse to the provisions of Rule 18 of the Bihar Panchayat Teacher Appointment Rules, 2006, and he had not done so, his writ petition cannot be entertained.

We do not find any infirmity, factual or legal, in the observations made and the conclusion reached by the learned single Judge.

Situated thus, we find no merit in this appeal. The appeal is not, therefore, admitted and shall accordingly stand dismissed.

It will, however, remain open to the appellant to move the appellate Tribunal/authority in terms of the provisions of Rule 18 of the Bihar Panchayat Teacher Appointment Rules, 2006. If such an application/appeal is made, the appellate Tribunal/authority shall dispose of the same in



accordance with law, as expeditiously as possible, preferably within a period of four months from the date of filing of the application/appeal.”

After the order of the Division Bench, the petitioner herein has filed Appeal Case No. 2 of 2015 before the appellate authority. Unfortunately, the order of the Letters Patent Appeal Court was misunderstood by the appellate authority and instead of deciding the appeal on its own merit, the appeal of the petitioner was dismissed as time barred. The order, dated 03.09.2015 has been challenged in the present writ application.

Sketchy counter affidavit has been filed on behalf of the respondent-District Education Officer, Jamui. The deponent of the counter affidavit has not made any statement on the merit of the writ application. Paragraphs 5 to 7 of the counter affidavit are quoted below :

“5 : That the matter is related with Teacher Appointment under the Bihar Elementary Teachers Appointment Rules 2006 by which the concerned Niyojan Unit is invested with the jurisdiction of conducting appointment.

6 : That the concerned Panchayat Secretary has been the custodian of records related with appointment of teachers; therefore respondent no. 6 is issued a letter on 31.12.2015 to the Panchayat Secretary for necessary action.



“7 : That the annexure-5 to the writ petition is to be followed by this respondent, and this respondent has no jurisdiction to interfere with the order of the Tribunal.”

The aforesaid paragraphs indicate that respondents are wasting the time and money of the State in filing counter affidavit which does not serve any purpose as it does not help the writ Court in the disposal of the writ application. Considering the fact that the District Teachers Appellate Authority has dismissed the appeal notwithstanding the observation of the Letters Patent Appeal Court to examine the case of the petitioner on merit in accordance with law as possible, preferably within a period of four months from the date of filing of the application/appeal.

In view of the above, the Court is left with no option, but, to **set aside** the order of the appellate authority, contained in Annexure 5, and the matter is remitted back to the District Teachers Appellate Authority, Jamui, to pass fresh order after hearing the parties afresh in accordance with law.

It is made clear that the appellate authority is required to decide the merit of the claim instead of treating the petition as time barred. The appellate authority is expected to take final decision within a maximum period of three months from the date



of receipt/production of a copy of this order, the statutory period prescribed for disposal of the appeal under the Rules.

To the extent indicated above, this writ application is **allowed.**

(Anil Kumar Upadhyay, J)

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