

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1975 of 2011

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1. Smt.Anita Kumari W/O Sri Suresh Singh R/O Vill.- Sabdulahchak, P.- Masaurhi, Distt.- Patna
 2. Sri Santosh Kumar S/O Late Chandrika Singh R/O Vill.- Chakalma, P.S.- Masaurhi, Distt.- Patna
 3. Sri Bijay Choudhary S/O Sri Rajendra Choudhary R/O Vill.- Balliary, P.S.- Masaurhi, Distt.- Patna
 4. Sri Binay Kumar S/O Sri Ramendra Singh R/O Vill.- Suphuli, P.S.- Masaurhi, Distt.- Patna
 5. Smt. Priti Kumari S/O Sri Mundrika Singh R/O Vill.- Sabdulahchak, P.S.- Masaurhi, Distt.- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources, Development Department Govt. Of Bihar, Patna
3. The District Teachers Employmnet Appellate Authority Patna Throguh Its Member
4. The District Magistrate, Patna
5. The District Superintendent Of Education, Patna
6. The Block Development Officer, Masaurhi, Patna
7. The Block Education Extension Officer, Masaurhi, Patna
8. The Mukhiya, Gram Panchayat Raj Kharant, Block Masaurhi, Distt.- Patna
9. The Panchayat Secretary, Gram Panchayat Raj Kharant, Block Masaurhi, Distt.- Patna
10. Sri Rajnish Kumar S/O Sri Ashok Sing R/O Vill.- Poawan, P.S- Masaurhi, Distt.- Patna

... .. Respondent/s

with

Miscellaneous Jurisdiction Case No. 2558 of 2011

In

Civil Writ Jurisdiction Case No.1975 of 2011

SMT. ANITA KUMARI & ORS

... .. Petitioner/s

Versus

THE STATE OF BIHAR & ORS

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 1975 of 2011)

For the Petitioner/s : Mr. Rajendra Pd. Singh, Sr. Adv.

Mr. Mukesh Kumar Singh, Adv.

For the Respondent No.10: Mr. Satya Deo Kumar, Adv.

Mr. Aditya Nath Jah, AC to SC



(In Miscellaneous Jurisdiction Case No. 2558 of 2011)

For the Petitioner/s : Mr. Alok Kumar Singh

For the Respondent/s : Mr. K.P. Gupta Sc16

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

12 25-06-2018 Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State as well as Respondent No.10.

Learned counsel for the petitioners submits that petitioners were appointed in the year 2003 as Siksha Mitra. They continued upto 1.7.2006 and by virtue of operation of rule they were absorbed as Panchayat teachers in 2006. Once they were absorbed as the Panchayat teachers their status has undergone change. The post of Siksha Mitra was abolished and after on 01.07.2006 and as such the controversy as to the appointment of Siksha Mitra is now closed chapter particularly in view of the law laid down by the full bench of Kalpana Rani Vs. The State of Bihar, reported in 2014 (2) PLJR page 665.

He further contended that the District Teacher employment authority is a creature of the rule. It came existence only after the amendment in the rule in 2008 and as such it has no jurisdiction to entertain the case with regard to appointment of Siksha Mitra.

On the other hand, on behalf of the respondent contention was advanced that in relation to the present



controversy the remedy available to the petitioner is to prefer appeal before State Appellate Authority for hearing the matters against the order of District Appellate Authority on the point of exhaustion of alternate remedy, the law laid down by the Constitution Bench in Md. Nooh case AIR 1958 SC 86 is settlor. On perusal of the Constitution Bench judgment of Apex Court (Supra) it is evident that there are three expectations to the rule of alternative remedy. Firstly, alternative remedy is not bar in case of violation of fundamental right. Secondly, if the order is totally without jurisdiction and thirdly, if the order is in violation of principles of natural justice. From the material available on record. Particularly, on perusal of Annexure-1 it is menifest that te order is totally without jurisdiction and as such alternate remedy is no bar in deciding the present writ petition. Hence, the Court is of the view that the order contained in Annexure -1 is without jurisdiction as the District Teacher Employment Appellate Authority has no jurisdiction to reopen the matter of Siksha Mitra. The entire exercise is nullity and as such the order contained in Annexure-1 cannot sustain, it is accordingly quashed writ petition is allowed. The respondent is directed to work out the entitlement of the petitioner accordingly within maximum period of six months from the receipt / production of



the copy of this order.

With the aforesaid that the writ application is allowed
and disposed of.

In that view of the matter the contempt proceeding is
dropped as the opposite parties have complied with the interim
order .

Accordingly, MJC No. 2558 of 2011 is disposed of.

(Anil Kumar Upadhyay, J)

Banti/ T.Kr.

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