

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.709 of 2014
IN
Civil Writ Jurisdiction Case No. 11560 of 2013**

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1. Md. Tajwar, Son of Md. Shulam Rasool, resident of village- Babhangama, P.O.- Banghara, P.S.- Ghatho, District- Samastipur
 2. Abdul Kaiyum, S/o- Md. Suleman, Resident of Village- Bishambharpur Alloth, P.S.- Musariigharari, District- Samastipur

.... **Appellants**

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Human Resources, Development Department, Government of Bihar, Patna
3. The Secretary, Primary Education, Government of Bihar, Patna
4. The Regional Deputy Director, Darbhanga Pramandal, Darbhanga
5. The Commissioner, Darbhanga Pramandal, Darbhanga
6. The District Magistrate, Samastipur
7. The District Education Officer, Samastipur
8. The District Programme Officer, (Establishment), Samastipur
9. The Block Development Officer, Ujiarpur, Samastipur
10. The Block Education Officer, Ujiarpur, Samastipur
11. The Ex-Prakhand Pramukh Neelam Devi, W/o- Ajay Sah, Resident of Village- Sattanpur, P.S.- Ujiarpur, District- Samastipur
12. The Prakhand Pramukh Kiran Devi, W/o- Kameshwar Sah, Resident of Village- Karihara, P.S. Ujiarpur, District- Samastipur
13. The District Teacher Appointment Appellate Authority, Samastipur
14. Md. Manjoor Alam, S/o Md. Abdul Rashid R/o village- Kabai, P.O.- Banghara, P.S.- Ghatho, Dist.- Samastipur
15. Assif Raja S/o Md. Sami Ahmad, R/o Village- Belari, P.O.- Balari, P.S.- Ujiarpur, Dist.- Samastipur
16. Najma Sahin, d/o Md. Abdul Aziz Anjum, r/o Village- Dalsingsarai, P.S.- Dalsingsarai, Dist.- Samastipur

.... **Respondents**

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Appearance :

For the Appellants : Mr. Dr. Alok Kumar Alok, Advocate and
Mr. Dilip Kumar Roy, Advocate

For the State : Mr. R.B.N.Singh, AC to GA 10 and

For the private respondents : Mr. Chandan Kumar Verma, Advocate

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)
Date: 10-09-2018**



Heard learned counsel for the appellants and the respondents.

This Intra Court Appeal is directed against order dated 07.02.2014, passed by the learned Single judge by which the writ petition bearing C.W.J.C.No.11560 of 2013 of the appellants was dismissed on the ground of delay and deliberate latches as the writ petition was filed four years after the order of the District Teachers Employment Appellate Authority, Samastipur (hereinafter referred to as 'the Tribunal'), also for the reason that vacancies against which the petitioners were claiming their appointment, had already been carried forward to the second phase.

Learned counsel appearing for the appellants stated that as per the circular of the State Government, vacancies were required to be carried forwarded, save and except, the vacancies which were under dispute. However, these issues were not raised before the Tribunal. It is also not clear as to when such dispute was raised by the petitioners. So far as order of the Tribunal is concerned, it is clearly stated that the petitioners' case for appointment can be considered after verification as to whether the said vacancies were carried forward or not. Even today, learned counsel for the appellants has accepted that the same vacancies were not only carried forward but appointments have also been



made creating third party right. That apart, the writ petition was virtually filed for execution of the order passed by the Tribunal which was subject to the condition that vacancies had not been carried forward to the second phase, which condition cannot be fulfilled since the vacancies have admittedly been carried forward to the second phase. Also writ has been filed after delay of four years of passing of the order by the Tribunal. In such a situation, we are of the view that the order impugned does not warrant any interference.

The appeal is accordingly dismissed.

(Dr. Ravi Ranjan, J)

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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