

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.587 of 2015

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Sunil Rai Son of Sukdeo Prasad Rai, Resident of Village - Malikpur, P.S. - Kadwa,
District - Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The District Magistrate, Katihar.
3. The District Education Officer, Katihar.
4. The District Programme Officer (Saksharta) Katihar.
5. The Block Development Officer, Kadwa, District - Katihar.
6. The Block Education Officer, Kadwa, District - Katihar.
7. The Head Master, Primary School Kalabari Circle, Kadwa - 2, District - Katihar.
8. Nageshwar Rai Son of Phusru Rai, Resident of Village - Tetaliya, P.S. - Kadwa, District - Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Jha, Advocate
For the State	:	Mr. G.P. Ojha, GA 7 with Mr. Gopal Krishna, AC to GP 7

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-02-2018

Heard learned counsel for the petitioner and State.

2. The petitioner has moved the Court for the following
reliefs:

“ That this is an application for issuance of an appropriate writ, order or direction directing the respondent concern to allow the petitioner to join on the post of Tola Sevak, Primary School Kelabari, Kadwa, Katihar as he has been selected in accordance with law and letter of employment was issued to him but he is not being allowed to join by the Head Master concern and he has come to know that one Nageshwar Rai has joined in his place although he belongs to another Tola.

Further cancel the appointment of Respondent no.



8 as his appointment is against the guideline or direct the DEO, Katihar to make an enquiry and take necessary action in this matter.

And for any other relief(s) for which the petitioner is found to be entitled in the facts and circumstances of the case.”

3. From the pleadings on record, especially the enquiry report submitted by the District Magistrate, Katihar, it transpires that no post on which the petitioner claims to have been selected exists.

2. Learned counsel for the petitioner is not in a position to show that such post is available and duly sanctioned.

3. In view of the aforesaid, no order can be passed in favour of the petitioner as appointment can only be made on a valid sanctioned post and once on oath and in the enquiry it has come that no post exists, there cannot be any claim to such post which in non-existent.

4. Accordingly, the writ petition stands disposed off. However, the petitioner shall be eligible to apply for such post if in future there is vacancy or post is available and the authorities concerned deem it appropriate to fill up the same, in accordance with law.

(Ahsanuddin Amanullah, J)

Anjani/-

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