

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1303 of 2017

In

Civil Writ Jurisdiction Case No. 9004 of 2015

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Smt. Shoshita Kumari w/o Abhay Kumar resident of village - Bagahi, P.S. -
Ghorasahan, District - East Champaran.

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna.
2. The Director, Primary Education, Patna.
3. The District Programme Officer (Establishment), East Champaran.
4. The Block Education Officer, Chauradano, East Champaran.

.... Respondents

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Appearance:

For the Appellant/s : Mr. Pramod Kumar Pandey, Advocate.

For the Respondent/s : Mr. Ashutosh Ranjan Pandey, AAG 15.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 16-02-2018

The writ petitioner-appellant is aggrieved by the impugned judgment dated 17.08.2017 passed by the learned Writ Court in CWJC No. 9004 of 2015. By the impugned judgment the learned Writ Court has been pleased to dismiss the Writ Application by placing reliance upon the Hon'ble Division Bench judgment dated 06.12.2012 passed in LPA No. 921 of 2012 (Rashmi Prabha Vs. The State of Bihar & Ors.).

2. The appellant was earlier appointed on the post of Panchayat Teacher on the basis of a Senior Secondary School



Certificate obtained from Nababharat Shiksha Parishad (NSP), Orissa, India. In the year 2014, at the instance of one Ritesh Kumar, a resident of Khagaria, a bench of this Court passed a general order giving direction to the Director, Primary Education to examine and get an enquiry held all over Bihar to ensure that no Panchayat Teacher having qualification of Intermediate from NSP, Orissa is allowed to continue in service. In view of the said order of this Court, this appellant was also served with a show cause and her salary was stopped with immediate effect. She filed a show cause, however, the respondents removed her from service w.e.f. 24.03.2015.

3. It is a matter of record that another candidate, namely, Rashmi Prabha had moved this Court in CWJC No. 10236/2011 seeking appointment on the basis of her Intermediate certificate obtained from NSP, Orissa. The said Writ Application was dismissed on 21.02.2012, thereafter, she preferred LPA No. 921 of 2012 which was heard on 06.12.2012 by the Hon'ble Division Bench presided over by the then Hon'ble the Chief Justice of this Court and the Letters Patent Appeal was dismissed.

4. Learned counsel for the appellant has submitted that the order dated 13.02.2014 passed in CWJC No. 1634/2014 was later on set aside by another Hon'ble Division Bench vide judgment and order dated 08.07.2015 passed in LPA No. 1347/2014. The grievance of the



appellant is that even though the order passed in CWJC No. 1634/2014 was set aside by the Hon'ble Division Bench, her removal, which was a consequence of the order passed in CWJC No. 1634/2014, has not been interfered with by the learned Writ Court in the present case and the Writ Application has been dismissed relying upon the Hon'ble Division Bench judgment passed in LPA No. 921/2012.

5. Learned counsel representing the respondents submits that the judgment and order dated 08.07.2015 passed by the Hon'ble Division Bench in LPA No. 1347/2014 is *per incurium* inasmuch as the said Division Bench was not informed about the earlier Division Bench judgment dated 06.12.2012 passed in LPA No. 921/2012. Admittedly, in the case of Rashmi Prabha, she had also passed her Intermediate from NSP, Orissa but her Writ Application was not entertained and the LPA preferred by her was also dismissed by the Hon'ble Division Bench.

6. We agree with the submissions of the learned counsel representing the respondents that the Hon'ble Division Bench judgment dated 08.07.2015 passed in LPA No. 1347/2014 would be held to be *per incurium* and the learned Writ Court has rightly refused to accept the submission of the writ petitioner regarding the status of her certificate / degree obtained from NSP, Orissa which is



not a recognized institute and the certificate / degree issued by the said institute cannot be recognized for giving appointment on the post of Panchayat Teacher.

7. In the circumstances stated above, we find no error in the impugned judgment.

8. The Letters Patent Appeal has no merit. It is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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