

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1355 of 2017

In
Civil Writ Jurisdiction Case No.11359 of 2017

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1. Shivdatt Kumar Pal, Son of Shri Shashilendra Kumar Pal, resident of village + P.O.- Nanad, P.S.- Silao, District- Nalanda.
 2. Ajay Kumar, Son of Suresh Prasad, resident of Village + P.O. + P.S.- Makhdumpur, District- Jehanabad, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Municipal Commissioner- Cum-Secretary, Nagar Madhyamik Sikshak Niyojan Samiti, Patna.
5. The District Programme Officer, (Establishment), Patna.
6. District Education Officer, Patna.
7. The Secretary, Patna Municipal Corporation, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Abhinav Srivastava, Advocate Mr. Raj Shekhar, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey AAG15
For the PMC	:	Mr. Prabhakar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 11-10-2018

The appellants (original writ petitioners) are aggrieved by the judgement and order dated 25.08.2017,



passed by the learned Single Judge in C.W.J.C. No. 11359 of 2017, whereby the order passed by the State Appellate Authority in Case No. Appeal/95/2017 has been upheld and affirmed and the prayer made on behalf of the appellants has been rejected.

The appellants claimed that they had participated in the counselling on 26.02.2016, but were wrongly not given appointment letters, as was done in the case of other candidates who had appeared in counselling in other subjects.

It appears that Patna Municipal Corporation issued a general notice for employment of High School Teachers with subject-wise cut-off marks. Counselling for 8 subjects for Secondary Teachers and 7 subjects for Higher Secondary Teachers was scheduled on 26.02.2016, as intimated in the notice. The candidates who had higher marks than the cut-off marks were allowed to participate in the counselling and those with lesser marks than the cut-off marks for the required subject were returned. However, some of the candidates participated in the counselling even though their marks were lesser than the cut-off for the specific subjects.

Be it noted that no cut-off marks were fixed for 4 subjects, namely, Sanskrit, Urdu, English and Hindi, which mean that all interested candidates were invited for the



counselling. However cut-off marks were fixed for other subjects, including Social Science, in which the appellants (original writ petitioners) had claimed to have participated the counselling. The cut-off marks for Social Science subject was fixed at 74 per cent. Since the appellants did not have the requisite marks, even though they had participated in the counselling, they were not offered appointment letters.

Feeling aggrieved, the appellants appealed before the District Teachers Employment Appellate Authority, Patna. The District Teachers Employment Appellate Authority, Patna by its order dated 30th of January, 2017 allowed the prayer of the appellants and directed the authority concerned to appoint the appellants.

Patna Municipal Corporation challenged the aforesaid judgement of the District Teachers Employment Appellate Authority, Patna before the State Appellate Authority vide Appeal No. 95 of 2017.

Before the State Appellate Authority, the respondent-Corporation herein urged that for the counselling, which was scheduled to be held on 26.02.2016, necessary information in the nature of cut-off marks for each subject was forwarded to NIC on 25.02.2016 for being uploaded on its website. However, since the website of NIC was not functional on that



particular date, the relevant information including cut-off marks were pasted on different sides of the wall of the venue of counselling and also at the entry gate.

The appellants herein (original writ petitioners), it was urged by the Corporation, forcefully entered the counseling centre and signed the counselling register, for which necessary information was sent by the District Programme Officer (Establishment) to the concerned authorities. Since the appellants did not have requisite marks, they were not given the appointment letters.

As opposed to the aforesaid contention, the appellants (original writ petitioners) stated before the State Appellate Authority that the aforesaid plea of the Corporation of pasting of the cut-off marks for Social Science subject on the walls of the venue is incorrect and the selection process was not transparent for the purposes of accommodating some other favoured candidates.

The State Appellate Authority after taking into account all the aforesaid facts came to the conclusion that allowing the appellants herein to join service on the strength of counselling would in a way be unfair to such candidates who were returned from the counselling centre because of the cut-off marks. On such score, the order passed by the District Teachers Employment Appellate Authority, Patna was not sustained and the Patna Municipal



Corporation was directed to fix a new date of counselling for employment against the vacant posts of Secondary and Higher Secondary Teachers, particularly in Social Science subjects after seeking approval of Director of Secondary Education, Government of Bihar, Patna. A further direction was issued that the date of counselling be widely circulated through newspapers as also by uploading the same on the website of NIC and candidates be called in the ratio of 01:10 against the vacancies.

The learned Single Judge has rightly refused to interfere with the order passed by the State Appellate Authority. Since a direction has already been issued by the State Appellate Authority for holding fresh counselling with respect to the vacant posts in the stream of Social Science, the appellants cannot be said to have been adversely affected.

The learned Single Judge has also taken note of the fact that the entire process of counselling has been completed and appointment letters also have been issued to the successful candidates. As such, learned Single Judge did not choose to interfere with the order of the State Appellate Authority.

We are in complete agreement with the view taken by the learned Single Judge and we are firmly of the opinion that no interference is warranted with the



judgement and order passed by the learned Single Judge, which has been impugned in the present appeal.

The appeal has no merits. Accordingly, it is dismissed.

There shall be no order as to costs.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
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