

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9482 of 2019

=====

Anju Kumari, aged about 42 years, female, D/o Ashok Kumar Yadav @ Ashok Prasad Yadav, Resident of Village- Litiyahee, P.S.- Pipra, District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Old Secretariat, Patna, Bihar.
2. The Secretary-cum-Commissioner, Department of Human Resources, New Secretariat, Patna, Bihar.
3. The Director, Primary Education, Department of Human Resources, New Secretariat, Patna, Bihar.
4. The Commissioner-cum-Deputy Director, Primary Education, Department of Human Resources, Koshi Commissioner, Saharsa.
5. The District Magistrate, Supaul.
6. The District Education Officer, District- Supaul.
7. The Block Development Officer-cum-President, Panchayat Teacher Selection Committee, Block- Pipra, District- Supaul.
8. The Block Education Extension Officer, Block- Pipra, District- Supaul.
9. The Pramukh-cum-Member, Panchayat Teacher Selection Committee, Block- Pipra, District- Supaul.
10. The Mukhiya-cum-Adhyaksha, Panchayat Teacher, Selection Committee- Gram Panchayat- Amha, Block- Pipra, District- Supaul.
11. The Secretary-cum-Member, Panchayat Teacher Selection Committee, Amha, Block- Pipra, District- Supaul.
12. The Panchayat Samiti-cum-Member, Panchayat Teacher Selection Committee, Gram Panchayat- Amha, Block- Pipra, District- Supaul.
13. The Paryavekshak, Panchayat Teacher Selection Committee, Gram Panchayat- Amha, Block- Pipra, District- Supaul.
14. The Ward Sadasya-cum-Member, Gram Panchayat- Amha, Panchayat Teacher Selection Committee, Block- Pipra, District- Supaul.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Binay Kumar Singh
For the Respondent/s : Mr.Madanjeet Kumar (Gp20)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 30-04-2019

The present writ petition has been filed seeking the



following relief:-

“That this is an application for issuance of a writ of mandamus and any other appropriate writ/writs, order/orders, direction/directions, observation/observations, for commanding the respondents, specially respondent nos. 5, 6 and 10, District Magistrate, Supaul, District Superintendent of Education, Supaul and Mukhiya-Cum-Adhyaksha, Panchayat Teachers Selection/Appointment Committee, Gram Panchayat-Amha, Block-Pipra, Supaul, who has not selected the petitioner on the post of Panchayat Teacher, Gram Panchayat-Amha, Block-Pipra, Supaul and violated the provision of law (Bihar Teacher Selection Rules, 2006), contained in Annexure-4 to this writ petition).”

2. The petitioner had also filed a writ petition earlier seeking same and similar relief, pertaining to the same and similar subject matter, bearing C.W.J.C. No. 7074 of 2007, wherein the following directions were given by a judgment dated 12.7.2011:-

“Therefore, these writ applications are disposed of with a liberty to the petitioners of these cases to approach the concerned District Teachers Appellate Authority within a period of six weeks from today and if such an application by way of complaint is filed individually by them before the concerned Authority, it will proceed to examine the claim of the concerned petitioner on merit and would not non suit any one of them on the ground of limitation. It is however made clear, that in case, the petitioners would not assail the engagement/continuation of any other persons on the post of Shiksha Mitra who have been later on absorbed as Panchayat Shikshak, not only the Authority will have to issue notices to such persons but will have to afford opportunity of



hearing to them before passing the final order on such complaint / representation filed by the petitioners before the Authority.

The Authority keeping in view that the dispute has lingered for a long time and that the Authority was constituted during the pendency of these writ applications filed in the year 2007 must ensure that a final decision in accordance with law is taken within a period of six months from the date of filing of the complaint / representation of the concerned petitioners.

With the aforementioned observations and direction, these applications are disposed of.”

3. It would be apparent from the aforesaid order passed by this Court dated 12.7.2011 that the petitioner herein was granted liberty to approach the concerned District Teachers Appellate Authority within a period of six weeks of passing of the said order, whereupon the case of the petitioner was to be examined on merits without the appellate authority being impeded by the issue of limitation, however, admittedly, the petitioner failed to approach the appellate authority and instead she has approached this Court again by way of the present writ petition, which is outrightly an abuse of the process of the Court inasmuch as the present writ petition is not only barred by the principle of res judicata and constructive res judicata, but is also barred by the principles of estoppel, waiver and acquiescence inasmuch as the petitioner has deliberately not approached the concerned appellate authority, as was directed



by this Court in the earlier round of litigation. Moreover, the present writ petition is also barred by the principles of delay and laches inasmuch as the petitioner is seeking to raise an issue of the year 2007 in the year 2019 i.e. after a lapse of about twelve years and that too an issue pertaining to appointment as a Panchayat Teacher, though the prayer made by the petitioner in paragraph no. 1 of the present writ petition does not correctly depict the relief sought for by her, which, in any view of the matter, cannot be granted after a lapse of more than a decade, especially, when third party rights might have been created and much water has flown down the river.

4. For the reasons mentioned hereinabove, there is no merit in the present writ petition, accordingly, the same is dismissed, however, without any order as to costs.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	AFR
Uploading Date	23.05.2019
Transmission Date	NA

