

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10606 of 2019

=====

Sudhir Kumar Tiwari Son of Shri Parmeshwar Tiwari R/o Village-Jagatpur
Tarwara, Post Office-Telachha, P.S. Janta Bazar, District-Saran Chapra

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Education Department, Government of Bihar, Patna
3. The Director Primary Education, Education Department, Government of Bihar, Patna
4. The District Magistrate Saran at Chapra
5. The District Education Officer Saran at Chapra
6. The District Programme Officer (Establishment) Saran at Chapra
7. The Block Education Officer Lahladpur, District Gaya
8. The Mukhiya of Gram Panchayat Raj Purushottampur Block-Lahladpur, District-Saran
9. The Panchayat Secretary of Gram Panchayat Raj Purushottampur Block-Lahladpur, District-Saran
10. Shri Rajesh Kumar Pandey Son of Shri Vishwanath Pandey R/o Village and Post Office-Dhamsar, P.S. Janta Bazar, District-Saran at present posted and working as Prakhand Teacher in Govt. Middle School Telachha, Block-Lahladpur, District-Saran
11. Shri Ramesh Kumar Sah Son of Shri Krishna Nath Sah R/o Village and Post Office-Dhamsar, P.S. Janta Bazar, District-Saran at present posted and working as Prakhand Teacher in Govt. Middle School Telachha, Block-Lahladpur, District-Saran

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Umesh Kumar Mishra
For the Respondent/s	:	Mr.Prabhakar Jha (Gp27)
	:	Mr. Umesh Narayan Dubey

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 10-05-2019

1. The petitioner by way of the present writ petition seeks to assail the order dated 27.02.2019 passed by the State Appellate Authority in Appeal no. 689 of 2018 as also the order



dated 26.09.2018 passed by the District Teachers Employment Appellate Authority, Saran passed in Appeal no. 44 of 2017.

2. The brief facts of the case, according to the petitioner, is that the petitioner had applied for selection in the year 2005 in the Gram Panchayat Raj Purushotimpur, Block-Lahladpur, District-Saran, however the private respondent no. 10 and other three persons were selected and the petitioner could not be selected on account of irregularities committed by the *Mukhia* and the *Panchayat* Secretary. It appears that the petitioner had then obtained certain information through R.T.I. and had then approached the District Teachers Employment Appellate Authority, Saran by filing a case bearing Appeal no. 44 of 2017, however the case of the petitioner was dismissed by an order dated 26.09.2018 on the ground that the authority did not have any jurisdiction to hear any dispute relating to employment of *Panchayat Shiksha Mitra*. Thereafter, the petitioner had challenged the said order dated 26.09.2018 before the learned State Appellate Authority which, by an order dated 27.02.2019, has been pleased to dismiss the appeal of the petitioner herein bearing Appeal no. 689 of 2018 on the ground that the dispute in question was not entertainable by the District Appellate Authority, in view of the law laid down by the Hon'ble High Court in the case of ***Kalpana Rani v. The State of Bihar and Ors.*** reported in 2014(2) PLJR 665.



3. I have heard the learned counsel for the parties and I find that the present case in hand, is squarely covered by the Full Bench decision rendered in the case of **Kalpana Rani** (*supra*), paragraphs no. 26, 30, 106, 114 and 118, whereof are reproduced hereinbelow :-

“ 26. In the matter before us also the appellant Kalpana Rani was never appointed as Panchayat Shiksha Mitra either in 2003 or at any time until 1st July, 2006. After 1st July, 2006, the appellant could not set up right to employment as Panchayat Shiksha Mitra or right to be absorbed as Panchayat Teacher. The belated challenge to the appointment of the respondent nos. 9 and 10 and the claim for absorption as Panchayat Teacher raised by the appellee after 1st July, 2006 was clearly an afterthought. Such a claim cannot be entertained. Irrespective of the validity of the appointment of respondent nos. 9 and 10 as Panchayat Shiksha Mitra, the appellant has no right to be appointed as Panchayat Shiksha Mitra or to be absorbed as Panchayat Teacher.

30. For the aforesaid reasons, Appeal is dismissed with cost. The cost is quantified at Rs. 10,000/-. The amount of cost will be deposited in the Government Treasury at Samastipur within eight weeks from today. In the event, the appellant fails to deposit the amount of cost as directed, the District Collector, Samastipur will recover the same as arrears of land revenue. Interim relief stands vacated.

106 . A question, therefore, would arise as to whether in term of the repeal of the executive instruction of Panchayat Shiksha Mitra in terms of Rule 20(i) of 2006 Rules, could any dispute be adjudicated for appointment



on the post of Panchayat Shiksha Mitra? The answer to this must be in

negative, inasmuch as, if the entire provision for Panchayat Shiksha Mitra was itself repealed, there could not have been any appointment on the abolished post of Panchayat Shiksha Mitra. It is this aspect of the matter which has been dealt elaborately in the earlier Division Bench judgment in the case of Smt. Renu Kumari Pandey (supra) and I do not find any error in the same.

114. In view of the settled law as discussed above, I will have no difficulty in coming to a conclusion that the appellant, on the basis of her so-called empanelment on the post of Panchayat Shiksha Mitra in the year 2003 (after repeal of the entire scheme of Panchayat Shiksha Mitra with effect from 1.7.2006), could have either brought a dispute by filing her complaint in Janta Darbar on 14.09.2006 or could have sought any direction for her appointment on the post of Panchayat Shiksha Mitra. That was in fact simply impermissible in view of Rule 20(i) of the 2006 Rules.

118. Having thus given my anxious consideration, I am of the view that after 1.7.2006, no person, who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 1.7.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench Judgment in the



case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly, overruled.”

4. Having regard to the aforesaid judgment rendered by the Full Bench in the case of **Kalpana Rani (supra)** since the post of *Panchayat Shiksha Mitra* has already been abolished w.e.f. 01.07.2006, no one can be appointed on the said post and moreover, no dispute can be adjudicated with regard to the same, in terms of Bihar Panchayat Elementary Teachers (Employment and Service) Rules, 2006. Thus, there is no merit in the present writ petition apart the same being also barred by the principles of delay and laches, hence is dismissed.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.05.2019
Transmission Date	NA

