

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15043 of 2019

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Md. Aslam @ Md. Aslam Pervez, Son of Md. Sad Anjum, Resident of
Village- Rajpur, P.S.- Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The District Education Officer, Bhagalpur.
5. The District Programme Officer (Establishment), Bhagalpur.
6. The Secretary, State Appellate Authority, Education Department, Govt. of Bihar, 5 C-D, Niyojan Bhawan, Bailey Road, Patna.
7. The Secretary, District Teacher Appointment Appellate Authority, Bhagalpur.
8. The Block Development Officer (BDO), Sabour, District- Bhagalpur.
9. The Block Education Officer (BEO), Sabour, District- Bhagalpur.
10. The Panchayat Secretary, Gram Panchayat Raj, Lodipur Block and P.S.- Sabour, District- Bhagalpur.
11. The Mukhiya, Gram Panchayat Raj, Lodipur, Block and P.S.- Sabour, District- Bhagalpur.
12. Md. Nooruddin, Son of Md. Sadruddin, Resident of Village- Saidpur, P.S.- Sabour, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Respondent/s : Mr. Narendra Kumar, A.C. to G.P. 20

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 26-07-2019 Heard learned counsel for the petitioner and learned
counsel for the respondent State.

The petitioner is aggrieved by the decision of the
State Appellate Authority. The State Appellate Authority, on
consideration of entire material on record, came to a conclusion



that for fairness all the candidates who were eligible for consideration, their cases should be considered by the District Teachers Appointment Appellate Authority and dismissed the appeal preferred by this petitioner against the decision of the District Appellate Authority which directed for consideration of all the candidates for the posts available.

Learned counsel for the petitioner, placing reliance on the Division Bench Judgement in the case of Afshan Khurshid Vs. The State of Bihar & Ors., reported in 2016 (1) PLJR 836, would submit that the Tribunal is neither holding supervisory power nor any extra-ordinary jurisdiction to direct roving enquiry. The decision of the Division Bench is in relation to Rule 18 of the Rules which confers power to the Appellate Authority to decide the dispute. Learned counsel further submits that the petitioner has challenged the candidature of the private respondent no. 12 on the ground that ignoring petitioner's better merit, respondent no. 12 was appointed, but the District Appellate Authority directed consideration of the case of all instead of directing appointment of writ petitioner in place of private respondent no. 12. The District Teachers Appointment Appellate Authority, on consideration of the material available on record, has directed that fair opportunities be provided to all



eligible candidates and the consideration should not be confined to the appellant alone but other candidates as well, whether the candidates have approached the Appellate Authority or not, they are entitled to fair consideration in the matter of appointment. Such decision of the District Appellate Authority, as consistent with Article 14 and 16 of the Constitution of India which is applicable in the matter of public employment including the appointment on the post of Panchayat Teacher.

In view of the above, the Court is not inclined to interfere with the order of the State Appellate Authority which has approved the decision of the District Appellate Authority, as the decision is designed to promote fairness in decision making process and equal opportunity guaranteed under Article 16 of the Constitution of India.

For the reason stated above the present writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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