

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.78 of 2016

In

Civil Writ Jurisdiction Case No.4488 of 2014

=====

Gopal Kumar Thakur son of Madhu Sudan Thakur, Resident of village-
Dukhnadih, P.O. Garsanda, Police Station and District- Jamui

... .. Appellant

Versus

1. Purushottam Kumar Pandey, son of Bhagwan Pandey, Resident of Chainnal Tola, P.S.- Mokama, District- Patna
2. The State of Bihar
3. The Member, District Teacher Appointment Appellate Authority, Jamui
4. The Director, Secondary Education, Human Resources Development Department, Govt. of Bihar, Patna
5. The Deputy Development Commissioner, Jamui
6. The District Magistrate, Jamui
7. The District Education Officer, Jamui
8. The District Programme Officer, Jamui
9. The Sub-Divisional Education Officer, Jamui
10. The Executive Officer, Nagar Panchayat, Jhajha, Distt.-Jamui
11. The Block Development Officer, Jamui

... .. Respondents

=====

Appearance :

For the Appellant/s	:	Mr. Prashant Kumar Sahi, Sr. Adv. Mr. Pankaj Kumar Sinha, Adv.
For the Respondent/s	:	Mr. Shashi Kant Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 06-03-2019

Heard the parties.

This intra-Court appeal arises from the judgment and order dated 09.10.2015 passed by a learned Single Judge in CWJC No. 4488/2014, whereby the writ petition has been allowed and the



appointment of the private respondent, who is the appellant herein, has been set aside.

The facts briefly noted from the pleadings on the writ petition as well as the appeal would confirm that the matter relates to appointment of Nagar Panchayat Teacher and which process was initiated somewhere in the year 2008. Both the appellant as well the private respondent were applicants to the post. The selection process so initiated, resulted in the appointment of the appellant herein which was questioned by the respondent- writ petitioner before the District Teachers Appointment Appellate Authority in Case No. 36/2011. The case was disposed of with a direction to the Appointment Committee to examine the claim of the candidate(s) and accordingly pass appropriate orders on the appointment while taking note of the allegation. The case challenging the appointment of the appellant was heard analogous with a number of similarly situated matters. A copy of the order of the Appellate Authority is at Annexure- 7 series.

The appellant feeling aggrieved by the order passed by the appellate authority questioned the same before this Court in CWJC No. 10759/2012. A learned Single Judge of this Court by judgment and order passed on 26.07.2013 relegated the matter to the Deputy Development Commissioner, Jamui for examining the



grievance and for passing appropriate order. The matter was examined and led to appointment of the appellant vide order bearing memo no. 2291 dated 21.12.2013, a copy of which is placed at Annexure 11 to the writ petition. It is feeling aggrieved by the order passed by the Deputy Development Commissioner, Jamui dated 21.12.2013 that the respondent no.1 approached this Court through CWJC No. 4488/2014 and the learned Single Judge by the judgment and order impugned dated 09.10.2015 has upheld the claim of the writ petitioner, to allow the writ petition and quashed the appointment of the appellant and it is thus that this appeal is filed and when the parties have been heard.

We have heard learned Counsel for the parties and have perused the records and we do not intend to go into the details of the contest because the post in question was earmarked for open category and the merit list so prepared put the writ petitioner next to the candidate who was selected for appointment, namely, Namita Kumari. It is not in contest that the said Namita Kumari did not choose to accept the appointment and thus in normal course the post should have been offered to the next in order of merit which is the writ petitioner but it went in favour of the appellant who was far below in order of merit and the reasons are not justifiable. Though learned Counsel for the appellant has tried



hard to persuade this Court as regarding the claim of the appellant to the post but as we have observed above, since there is no contest that the post belonged for an open category candidate and the writ petitioner was definitely better placed than the appellant, we find no reasons to interfere with the opinion expressed by the learned Single Judge which is founded on facts available on record and does not require any interference.

The appeal is dismissed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.04.2019
Transmission Date	NA

