

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6498 of 2018

Sanjeev Kumar Son of Sri Nagendra Prasad Singh Resident of Village-
Masudan, P.O.-Abhaypur, P.S.Piri Bazar, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Lakhisarai.
5. The District Education Officer, Lakhisarai, District-Lakhisarai.
6. The District Teacher Employment Appellate Tribunal, Lakhisarai.
7. The District Programme Officer Establishment, Lakhisarai, District-Lakhisarai.
8. The Block Education Extension Officer, Piparia, District-Lakhisarai.
9. The Block Development Officer-Cum-Executive Officer, Piparia Block, District- Lakhisarai.
11. The Pramukh of Piparia Block, District- lakhisarai.
12. Ramashray Yadav Son of late Bhanu Yadav Resident of Mohalla- Hanuman Nagar, Naya Bazar, at and P.S.- Lakhisarai, District- Lakhisarai.
13. Kumud Kumari Wife of Sanjay Kumar Resident of Karyanand Nagar, West Ward No. 9, P.O. and P.S. and District- Lakhisarai.
14. Krishnandan Sharma Son of late Kapildeo Sharma Resident of Village and P.O. Ramchandarpur, P.S. Piparia, District- Lakhisarai.
15. Ramnandan Sharma Son of Ramadhin Sharma Resident of Village and P.O. Wallipur, P.S. Piparia, District- Lakhisarai.
16. Shri Bhanu Rajak Son of not known The Member of Counseling the Assistant Teacher-Cum-In-Charge Headmaster, Middle School, Mohanpur, P.S. and Block- Piparia, District- Lakhisarai.
17. Kri Kokil Kumar Son of not known The Member of Counseling, the Assistant Teacher, Utkramit Middle School, Murberia, Block and P.S. Piparia, District- lakhisarai.
18. Sri Arjun Pandit Son of not known The Member of Counseling , the Assistant Teacher, Kanya Middle School, Ramchandarpur, Block and P.S.- Piparia, District- Lakhisarai.
19. Sri Sita Ram Rajak Son of not known Member of Counseling, the Assistant Teacher, Middle School, Olipur, P.S. and Block- Piparia, District-Lakhisarai.
20. Sri Sudhir Sharma Son of not known, the Member of Counseling , the B.R.P. Piparia Block, District- Lakhisarai.
21. Smt. Sunita Devi Wife of not known the Member of Prakhand Niyojan Samiti, Piparia Block, District- Lakhisarai.



... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5598 of 2018

Rakesh Kumar Son of Sri Prayag Mahto Resident of Village- Lakshmipur, P.O.- Kawadpur, P.S. Suryagarha, District- Lakhisarai, Presently working as Assistant Teacher in Mohanpur, Middle School Under Piparia Block, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
2. The Chairman, the State Appellate Authority, Education Department, 5C-D, Niyogan Bhawan, Bailey Roa
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Lakhisarai.
5. The District Education Officer, Lakhisarai, District- Lakhisarai.
6. The District Teacher Employment Appellate Tribunal, Lakhisarai.
7. The District Programme Officer Establishment Lakhisarai, District- Lakhisarai.
8. The Block Education Extension Officer, Piparia, District- Lakhisarai.
9. The Block Development Officer-Cum-Executive Officer, Piparia Block, District- Lakhisarai.
10. The Block Education Officer, Piparia-Cum-Secretary, Block Teacher Employment Committee, Piparia, Di
11. The Pramukh of Piparia Block, District- lakhisarai.
12. Ramashray Yadav Son of late Bhanu Yadav Resident of Mohalla- Hanuman Nagar, Naya Bazar, at and P.S.- Lakhisarai, District- Lakhisarai.
13. Kumud Kumari Wife of Sanjay Kumar Resident of Karyanand Nagar, West Ward No. 9, P.O. and P.S. and District- Lakhisarai.
14. Krishnandan Sharma Son of late Kapildeo Sharma Resident of Village and P.O. Ramchandarpur, P.S. Piparia, District- Lakhisarai.
15. Ramnandan Sharma son of Ramadhin Sharma Resident of Village and P.O. Wallipur, P.S. Piparia, District- Lakhisarai.
16. Shri Bhanu Rajak Son of not known The Member of Counseling the Assistant Teacher-cum-In-Charge, Headmaster, Middle School, Mohanpur, P.S. and Block,- Piparia, District- Lakhisarai.
17. Sri Kokil Kumar Son of not known The Member of Counseling The Assistant Teacher, Utkramit Middle School, Murberia, Block and P.S. Piparia, District- Lakhisarai.
18. Sri Arjun Pandit Son of not known the Member of Counseling, the Assistant Teacher, Kanya Middle School, Ramchandarpur, Block and P.S. Piparia,



District- Lakhisarai.

19. Sri Sita Ram Rajak Son of not known Member of Counseling, the Assistant Teacher, Middle School, Olipur, P.S. and Block -Piparia, District-Lakhisarai.
20. Sri Sudhir Sharma Son of not known the Member of Counseling , the B.R.P. Piparia Block, District- Lakhisarai.
21. Smt. Sunita Devi wife of not known the Member of Prakhand Niyojan Samiti, Piparia Block, District- Lakhisarai.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 6498 of 2018)

For the Petitioner/s : Mr. Siya Ram Sahi, Adv.
Mr. Indu Bhushan, Adv.

For the Respondent/s : Mr. J.K. Roy No. 1- Sc13

(In Civil Writ Jurisdiction Case No. 5598 of 2018)

For the Petitioner/s : Mr.Indu Bhushan

For the Respondent/s : Mr.A.R. Pandey- Aag15

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 28-06-2019 Heard learned counsel for the petitioner and the counsel appearing on behalf of the State as well as learned counsel appearing on behalf of private respondents.

Vide order dated 30.03.2018 notice was issued to respondents no. 12 to 21. In response to the notice issued by this Court on 30.03.2018 and subsequent order issuing fresh notice except respondent no.13 none has filed counter affidavit. Petitioner in C.W.J.C. No. 5598 of 2018 is aggrieved by the order of the State Appellate Authority in Appeal No. 159 of 2017 and Appeal No. 160 of 2017, both the appeals arises out the order dated 07.01.2012 passed by the District Teacher Employment Appellate Tribunal, Lakhisarai in Appeal No.



76/2010-11, Appeal No. 105/2010-11, Appeal No. 107/2010-11, Appeal No. 112/2010-11.

Learned counsel appearing on behalf of petitioner submits that the State Appellate Authority has travel beyond jurisdiction in entering into the validity of the appointment made in the first phase, notwithstanding, the fact that there was no challenge as to the appointment made in first phase the dispute which reached the State Appellate Authority was in relation to selection/appointment made in second phase.

Learned counsel appearing on behalf of State as well as private respondent no.13 admits this factual position. It is well settled proposition of law that tribunal are forum of limited jurisdiction. It can only exercise the power vested and cannot enlarge its jurisdiction like Court exercising plenary jurisdiction. The State Appellate Authority with limited jurisdiction cannot enter into the correctness of the legality and validity of the appointment made in first phase as there was no challenge as to the legality or validity of the appointment made in first phase.

In view of the consensus emerge during the course of hearing, there is no difficulty in holding that the state tribunal has passed order interfering with the selection of first phase which was not under challenge before the State Tribunal.



Under the aforesaid circumstance, when the challenge is confined to appointment in second phase the decision State Appellate Tribunal interfering with the selection in the first phase is uncalled for. The Court is of the considered view that instead of going to the entire merit of the order passed by the State Appellate Authority, this writ petition may be disposed of to the extent it involve the direction for action with regard to selection made in first phase selection process in 2006-07. The second phase selection process started in 2008 and the appointment was made in 2010, since there is no challenge in the writ application as to the decision of the State Appellate Tribunal Authority so far as infirmity in relation to selection and appointment made in second phase pursuant to selection process started in 2008, the Court is not entering into the correctness of the decision of the State Appellate Authority qua second phase selection process.

In view of the facts and circumstances discussed above, the writ petition is allowed to the extent that the order passed by the State Appellate Authority dated 12.03.2018 so far as it relates to selection process commenced in 2006-07 is hereby declared as without jurisdiction order and it shall not be given effect to and to that extent the order of the State Appellate



Authority dated 12.03.2018 is quashed. Since, there is no challenge as to the finding with regard to selection process of second phase, the Court refrain from passing any observation on the merit of the order passed by the State Appellate Authority as to second phase selection.

With the aforesaid, the present writ petition is allowed to the extent indicated herein above.

(Anil Kumar Upadhyay, J)

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