

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1569 of 2016**

**In**  
**Civil Writ Jurisdiction Case No.6074 of 2011**

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Rani Gupta, Wife of Ratan Kumar Sah, Resident of Village- Hari Ganj  
Chawk, Katihar, P.S. and District- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Magistrate, Katihar.
4. The Deputy Development Commissioner, Katihar.
5. The District Superintendent of Education, Katihar.
6. The Block Development Officer, Pranpur Block, District-Katihar.
7. The Block Education Extension Officer, Pranpur Block, District- Katihar.
8. The Mukhiya Kebala Gram Panchayat, Pranpur Block, District- Katihar.
9. The Panchayat Secretary, Kebala Gram Panchayat, Pranpur Block, District-Katihar.
10. The Member, the District Teachers Employment Appellate Authority, Katihar.
11. Tabassum Parween, daughter of Syed Didor Tamanna, resident of Village- Trimohani, P.O Amdabad (Barbarganj), P.S. Amdabad, District- Katihar.

... .. Respondent/s

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**Appearance :**

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| For the Appellant/s  | : | Mr. S.B.K. Mangalam, Advocate |
| For the Respondent/s | : | Mr. Kumar Saurav, AC to SC-11 |
|                      |   | Mr. Sri Ram Krishna, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**and**

**HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)**

**Date : 03-02-2020**

In the present case, the appellant is challenging the order of the Appellate Authority on the ground that he has misconstrued and misdirected himself and rejected the claim of



the appellant for being appointed as Panchayat Teacher of the Gram Panchayat, Kewala in Pranpur Block. Advertisement was published for recruitment of Panchayat Teacher in which the appellant has also applied for the said post but the appellant could not be appointed. She made a complaint to District Superintendent of Education wherein allegation has been made that one Tabassum Parween has wrongly been appointed as the present appellant has secured the marks 492.57 whereas Tabassum Parween has secured 465.66 and she should be removed and the present appellant would be appointed. At the relevant time, District Development Officer, Pranpur was the Appellate Authority, who entertained the application wherein he had decided that earlier as per the roster, one post was reserved for the handicapped person, but later on, one post made for handicapped was made open and as such the recruitment of Tabassum Parween was illegal and accordingly, cancelled the appointment of Tabassum Parween and directed to carryout the order. A letter was issued from the office of District Superintendent of Education addressed to the present appellant wherein he has informed that appellant has approached the Janta Darbar of Hon'ble Chief Minister for redressal of grievance of the appellant but in view of the report of Block Development Officer, Pranpur dated 25.06.2008, appointment of Tabassum Parween has been cancelled but in view of the department



circular, appellant cannot be appointed. Thereafter, the District Superintendent of Education cum District Program Coordinator, Katihar wrote a letter to District Appellate Authority wherein it has been mentioned that even after the order passed against Tabassum Parween which has been held to be illegal but the Mukhiya and Secretary of the Panchayat has continued her employment and she was being paid her salary and requested to take action against them (Annexure-2). The villager of Panchayat has filed representation that recruitment has been made wrongly without following the prescribed procedure as the person lessor mark having been appointed and the candidate having been higher marks was not considered. The matter was referred to Block Development Officer, Paranpur-cum-Appellate Authority who held enquiry, found the appointment to the post of Panchayat Teacher has been made illegally. The District Superintendent of Education cum District Programme Officer addressed letter dated 27.03.2009 (Annexure-12) to the District Employment Education Tribunal informing that the appointment of Panchayat Teacher has not been made properly. The Block Education Extention Officer, Pranpur addressed a letter dated 28.03.2009 (Annexure-13) to the Panchayat Secretary and Mukhiya the appointment of Panchayat Teacher has wrongly been made as the candidate higher mark has been left out, the candidate having lessor mark has been appointed.



The copy of enquiry report including letter several authorities sent to take action accordingly but action report was not received, which was serious matter and Panchayat Secretary and Mukhiya will be held responsible, in the event of payment of honorarium would arise. Even after the said letter, the order was not carried out whereupon a letter was addressed to Panchat Secretary and the Mukhiya of Gram Panchayat vide letter no.36 dated 31.03.2009 (Annexure-14) mentioning therein that the villager of that Gram Panchayat has made a complaint with regard to irregularity committed in the matter of recruitment of Panchayat Teacher and earlier the letter was given to carry out the order of the higher authority but again report was not received, the warning was given, if the order would not be carried out within three days in such circumstances, he would be held responsible for the illegality.

2. Another letter no.42 dated 08.04.2009 (Annexure-15) was written by the Block Education Extension Officer, Paranpur wherein it has been mentioned that Tabassum Parween, Tafazzul Haque and Birendra Kumar Keshri were illegally appointed and they were to be removed, even after the order from the higher authority, they were continuing in service. In such circumstances, honorarium to them was stayed and they were expelled from training and whereafter it has been claimed by the appellant as Tabassum Parween was expelled from



service, hence, she should be appointed against the vacancy created on expulsion of Tabassum Parween. Challenge was made to the order of Appellate Tribunal but refused to grant any relief to the present appellant.

3. Learned counsel for the appellant submits that already issue has been settled by the Appellate Tribunal merely order was to be carried out in time and when she approached the second time, the Appellate Tribunal has wrongly refused to grant the relief to her and wrongly dismissed the appeal and he further submits that learned Single Judge has wrongly decided the issue also that Tabassum Parween was appointed in different category and the claim has been made by the present appellant is under BC category but the fact is that when she was expelled, in her place, the present appellant should have been appointed and further said that one Prerna Kumari, who has been adjusted against BC category, should have been adjusted against UR category and certainly in that circumstances, the present appellant would have been adjusted against that post.

4. In the present case, Tabassum Parween was adjusted against UR category in handicapped quota and if the handicapped quota goes certainly she cannot be adjusted but in that circumstances, the next person, to the last candidate under UR category would be appointed. As in the present case, Prerna Kumari is not a party to the present litigation so we cannot make



any comment about her adjustment against general category quota and we have no information with regard to marks secured by candidates of UR category as well as the vacancy is of the year 2006. After removal of Tabassum Parween, it must have merged with subsequent year of recruitment treating the same as vacant.

5. In such circumstances, we do not find any claim of the appellant to be subsisting to the post for Panchayat Teacher and, accordingly, this Court does not find any merit in this appeal. Accordingly, the same is dismissed.

**(Shivaji Pandey, J)**

**( Anjani Kumar Sharan, J)**

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