

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14334 of 2017

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Kamal Kumar Rajak son of Sri Bechan Rajak, Resident of Village- Rauta
Banshi, P.O. Rauta Khem, P.S. Saur Bazar, District- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The State Appellate Authority Education Department, Bihar Niyojan Bhawan
Bailey Road, Patna.
4. The Divisional Commissioner, Koshi Division, Saharsa.
5. The District Magistrate, Saharsa.
6. The District Education Officer, Saharsa.
7. The District Programme Officer Literacy Saharsa.
8. The District Teacher Appointment Appellate Authority Saharsa.
9. The Block Education Officer Under Block Saur Bazar District Saharsa.
10. The Chairman of the Tola Samiti New Primary School Naya Nagar
Mushahri Tola Rauta Khem under Block S null null
11. The Head Master, Primary School, Naya Nagar Mushahri Tola Rauta Khem
under Block Saur Bazar District
12. Abhijeet Kumar Rajak son of Ghuran Rajak Resident of Village- Rauta
Banshi, P.O. Rauta Khem, P.S. Saur Bazar, District- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarnath Jha, Advocate
For the Respondent/s : Mr. S.C. Mishra-Sc16

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 29-11-2021

Heard Mr. Amarnath Jha, learned Advocate for
the petitioner the State.

The petitioner was appointed as Tola Sevak,
which appointment was challenged by respondent no. 12
and consequent to such complaint, the District Programme



Officer annulled the appointment of the petitioner. This was challenged by him before the District Teachers Appellate Authority *vide* Appeal No. 38 of 2016, which set aside the annulment order and affirmed the appointment of the petitioner on the post of Tola Sevak.

Against the aforesaid order passed by the District Teachers Appellate Authority, the respondent no. 12 preferred an appeal before the State Appellate Authority. The State Appellate Authority by order dated 12.07.2017 has set aside the order passed by the District Authority holding that the District Teachers Appellate Authority did not have the jurisdiction to decide any dispute regarding the appointment of Tola Sevaks.

Learned counsel for the petitioner has submitted that the issue of jurisdiction was raised before the District Teachers Appellate Authority but the same was rejected.

The preamble to the Bihar State School Teachers and Employees (Disputes Redressal) Rules, 2015 indicates that those rules have been framed in exercise of powers



conferred under Article 162, 243 of the Constitution of India and Section 47 read with Section 146 of the Bihar Rajya Panchayat Raj Act, 2006 and the provisions of Sections 46, 47 read with Section 419 of the Bihar Municipal Act, 2007 as well as Section 38 of the Right of Children to Free and Compulsory Education Act, 2009.

The Government of Bihar has made the aforesaid rules for redressal of complaints and appeals related to employment of Teachers and Non-Teaching Employees on a fixed pay in Elementary Schools and Higher Secondary Schools (including Government aided and Minority Schools of the State) set up by Panchayat Raj and Urban Institutions under the notified Employment Rules, 2006.

Tola Sevaks do not come within the aforesaid category.

The term *Niyojit Karmi* has also been defined in Section 2 of the Rules which means and includes the Librarians, Clerks, Peons and another employees of the



elementary/high and higher secondary schools employed according to the Rules with respect to engagement.

Tola Sevaks are appointed under the Rules of 2018 relating to appointment of Tola Sevaks and Swayam Sevaks. This appointment is made by a committee headed by the member of the concerned ward.

The rules further specify that any dispute with respect to appointment of Tola Sevaks, the first appeal would be entertainable within 15 days of such appointment before the District Education Officer and the second appeal could be filed within 15 days thereafter before the District Magistrate.

Thus, in the event of special provision having been created in the Rules relating to the appointment and challenge to such appointment, the District Teachers Appellate Authority did not have any jurisdiction to enter into the dispute of appointment between the petitioner and respondent no. 12.



For the aforesaid reason, the order passed by the State Appellate Authority is justified in the eyes of law.

No good reason has been assigned by the learned counsel for the petitioner to interfere with the order passed by the State Appellate Authority.

There is no merit in this petition and the same is dismissed.

It would be open for the petitioner to approach the appropriate authority, if so desired.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.12.2021
Transmission Date	

