

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10879 of 2019

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Md. Wasim Reza Son of Naim Uddin Resident of Village- Bharailly, P.S.-
Jalalgarh, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, Purnea, District- Purnea.
4. The District Programme Officer (Establishment), Dist- Purnea.
5. The District Superintendent of Education Officer, Dist- Purnea.
6. The Block Development Officer/The Block Education Officer, K. Nagar Block, District- Purnea.
7. The District Teachers Employment Appellate Authority, Purnea through its Presiding Officer Dist- Purnea.
8. The Mukhiya-cum-Chairman Selection Committee Grame Panchayat Raj Ganeshpur under Block K. Nagar Dist- Purnea.
9. The Panchayat Secretary, Gramme Panchayat Raj Ganeshpur under Block K. Nagar of Dist- Purnea.
10. Md Sarwar Son of Md Idris Resident of Village- Akhtiyarpur P.S. Sarsi District- Purnea.
11. Margoob Quamar Son of Md Mogis Alam Resident of Village- Parsrai, P.S. Amour, District- Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nasrul Hoda, Advocate Mr. Nadimul Hasan, Advocate
For the Respondent/s	:	Mr. Jitendra Kr. Roy 1 (Sc13) Mr. Hitesh Suman, AC to SC 13
For the Resp. 10	:	Mr. Shambhu Sharan Kumar, Advocate
For the Resp. 11	:	Md. Imtiyaz Hussain, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 30-11-2021

Heard Mr. Nasrul Hoda, learned Advocate for

the petitioner and Mr. Shambhu Sharan Kumar for



respondent no. 10. The State is represented by Mr. Hitesh Suman, learned AC to SC 13.

The petitioner, even though had higher marks than private respondent no. 10, was not appointed on the post of Urdu Teacher in the camp interview on the ground that he was not available at the time when his name was called out. The petitioner then made a complaint before the authorities and when such complaints did not yield any result, he approached the District Teachers Appellate Tribunal.

The Tribunal, finding the claim of the petitioner to be genuine, directed for reinstatement of the petitioner on the post of Urdu Teacher after removing private respondent no. 10.

Before the District Teachers Appellate Tribunal, the petitioner had contended that there were 92 candidates in general category for the post of Urdu Teacher but the fact that only one was shown to be



present on the day of the interview reflected that correct procedure had not been adopted.

Apart from this, it was submitted by him that when he found that there was pandemonium at the camp site, he looked for the nodal officer to complain about his name not having been called out. Later he made a telephonic complaint to the authorities and also approached the District Teachers Appellate Tribunal. The District Teachers Appellate Tribunal, on finding that the petitioner had higher marks than private respondent no. 10 and that the process did not appear to have been carried out in all fairness, directed the petitioner to be appointed on such posts.

This decision of the District Teachers Appellate Tribunal was challenged by private respondent no. 10 before the State Appellate Authority *vide* Appeal No. 399 of 2018.



The State Appellate Authority has found that the observation of the District Teachers Appellate Tribunal viz. that the petitioner was present at the time of interview, was not based on any cogent evidence and that the claim of the petitioner could also be negated on the ground that in the first instance, the complaint was not made against the private respondent no. 10 but against respondent no. 11 (Margoob Quamar). This demonstrated that the petitioner was not present at the time when his name was called out.

The State Appellate Tribunal after referring to the process adopted for appointing teachers in the camp interview, held that even though a person has higher marks, that would not entitle him to be appointed unless he were present at the time of interview. The State Appellate Tribunal has also gone on to state the purpose behind such camp interviews is to avoid delays in the appointment process.



What has struck this Court is that it has not been disputed that only one one person/candidate was shown in the register which was signed by the authorities. This, in the wake of 92 applicants in unreserved category for the post of three Urdu Teachers appears to be rather strange in these times of distress when so many people are unemployed.

Apart from this, making a telephonic complaint to the authorities concerned cannot be treated as an evidence good enough for proving the absence of the petitioner at the time of interview. If there was a pandemonium at the camp site and the nodal officer was not to be found, the only way to register a complaint was to use the telephonic channel of communication. That ought not to have been treated as an evidence strong enough to dispute the contention of the petitioner that he was present at the camp site. That the petitioner had initially made a complaint



against Margoob Quamar is also not a conclusive piece of evidence leading to the only inescapable conclusion that the petitioner was not present at the time of interview.

On the contrary, the two evidences furnished by the petitioner viz. the affidavited statement of one of the candidates in another subject and of a member of Panchayat Samiti regarding the presence of the petitioner at the camp site was totally ignored.

What further appears from the order of the State Appellate Tribunal is that one part of the finding of the District Teachers Appellate Tribunal has been accepted by the State Appellate Tribunal but the other part has been ignored without assigning any reason.

The admitted position is that the petitioner has more marks than private respondent no. 10. Though the percentage of marks would not be relevant for obtaining appointment in such camp interviews because



the process delineated for the purpose is that the name of the candidates in respective categories and subjects would be called thrice and the process would proceed ahead. If any person who has more marks also is not available on call, his claim would not be accepted later unless he shows up while the process is still afoot.

This process has been adopted for curtailing the time in appointment of teachers in elementary and primary schools of the State.

Nonetheless, finding that there was a newspaper report about the process not having been conducted with fairness and person with higher marks like the petitioner being non-suited only on the ground that he was not present when he contends that he was all through present but his name was never ever called out, it appears rather difficult to accept the factual position explained by the State Appellate Authority.



There may not be definite evidence of the presence of the petitioner at the camp site at the time of interview but equally deficient is the evidence disputing such a claim of presence of the petitioner.

Thus, the orders passed by the District Teachers Appellate Tribunal and the State Appellate Tribunal are set aside.

In that event, this Court finds that it would only be appropriate that a fresh process for appointment of Urdu Teacher in the aforesaid block be conducted by the same process with communication to all and sundry about the date and the process to be adopted for such interview.

The aforesaid exercise shall be concluded within a period of three months from the date of receipt/production of a copy of this order before the concerned authority and necessary sequel action shall be taken thereafter.



In the meantime, the *status quo* with respect to the appointment of Teacher of Urdu in the particular block shall be maintained.

With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.12.2021
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