

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5047 of 2021

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Satyendra Kumar Ram Son of Shri Ramjee Ram Resident of Village and Post
Office- Barka Gaon, Police Station - Bhagwanpur Hat, District- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna Patna
3. The Director, Primary Education, Bihar Patna
4. The District Magistrate, Siwan Siwan
5. The Divisional Commissioner, Saran Division at Chapra Chapra
6. The Regional Deputy Director of Education, Saran Division at Chapra Chapra
7. The Deputy Development Commissioner-cum-Chairman, District Education Establishment Committee, Siwan Siwan
8. The District Superintendent of Education-cum-District Programme Coordinator, Siwan Siwan
9. The Block Development Officer, Bhagwanpur Hat, Siwan District- Siwan
10. The Block Education Extension Officer-cum-Block Programme Coordinator, Bhagwanpur Hat, Siwan District- Siwan
11. Gram Panchayat Raj Barkagon, Block Bhagwanpur Hat, Siwan Through the Mukhiya Shri Bashishtha Narayan Singh, Son of Late Fulena Singh, Resident of Village- Barkagaon, P.S.- Bhagwanpur Hat, District- Siwan
12. The Panchayat Secretary, Gram Panchayat Raj Barkagaon, P.S.- Bhagwanpur Hat, Siwan District- Siwan
13. The Headmaster of Govt. Primary School Shah Tola Balhan, Anchal Bhagwanpur Hat, Siwan District- Siwan
14. The Chairman School Education Committee of Govt. Primary School Shahtola Balhan Anchal Bhagwanpur Hat, District- Siwan
15. The Member, District Teacher's Employment Appellate Authority, Siwan Siwan
16. Smt. Manju Devi Wife of Shri Manish Ram Resident of Village- Barkagaon Mishrawalia, P.O. - Barkagaon, Police Station- Bhagwanpur Hat, District- Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra
For the Respondent/s : Mr. Madhaw Prasad Yadav, GP 23

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT



Date : 02-02-2022

The matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. State counsel accepts notice for respondent Nos. 1 to 15.

3. Service of Notice to respondent No. 16 is dispensed since no adverse order is passed.

4. In the instant petition, petitioner has prayed for the following relief/reliefs:

“I. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to cancel the selection of the private respondent no. 15, namely, Smt. Manju Devi, who has been selected / appointed by way of illegal means and with the connivance of the then Mukhiya, as working Panchayat Shiksha Mitra contract was to be renewed and there was no provision for accepting the fresh application.

II. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to immediately terminate the services of private respondent Manju Devi, who has illegally been appointed as Panchayat Shiksha Mitra by entertaining her fresh application against the post, which was to be renewed from the candidates already working as Panchayat Shiksha Mitra.

III. For issuance of an appropriate as an alternative prayer of the petitioner for granting liberty to the petitioner to move before either learned District Teacher Employment Appellate authority, siwan or the learned State Appellate Authority, Patna under Rule 18 of Bihar Panchayat Teacher Employment and Service Condition Rule, 2006 for redressal of his grievance as the private respondent has been selected as Panchayat Shiksha Mitra in place of the petitioner in connivance with the then Mukhiya and for that issue, the petitioner may kindly be given at least liberty to move before



the learned District Teacher Employment Appellate Authority, Siwan or the learned State Appellate Authority, Patna.

IV. For issuance of any other writ/writs, order/orders direction/directions for which the petitioner would be entitled in the facts and circumstances of the present case.”

5. The petitioner without exhausting statutory remedy of appeal presented this petition and petition is not maintainable in view of the Apex Court decision in the case of ***State of Jammu and Kashmir V/s. R.K.Zalpuri and others*** reported in **AIR 2016 SC 3006 paragraph-20** has held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) Adjudication of writ petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;

(b) The petition reveals all material facts;

(c) The petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) Person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) Ex facie barred by any laws of limitation;

(f) Grant of relief is against public policy or barred by any valid law; and host of other factors”



6. Therefore, the petitioner is at liberty to prefer appeal before the Appellate Authority within a period of eight weeks from the date of receipt of this order. If such appeal is preferred by the petitioner, the same shall be considered by the Appellate Authority after giving ample opportunity of hearing to the petitioner as well as 16th Respondent- Smt. Manju Devi within a period of two months from the date of receipt of such appeal.

7. Accordingly, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

