

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3075 of 2022

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1. Shubham Kumar Son of Yugal Kishor Jaiswal Resident of Village - Rajghat, Police Station - Bokotti, District- Purnia.
 2. Ravish Kumar Son of Sri Bhim Prasad Sharma Resident of Village - Maheshpur, Police Station - Korha, District- Katihar.
 3. Deepak Kumar Singh Son of Gupteshwar Singh Resident of Village - Lalbagh, P.S. Sadar, Purnia, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The District Magistrate, Purnia.
5. The District Education Officer, Purnia.
6. The District Programme Officer (Establishment), Purnia.
7. The Block Education Officer, Rupauli, District- Purnia.
8. The Block Development Officer, Rupauli.
9. The Panchayat Employment Unit, Laxmipur Chhara Patti, Block Rupauli, through its Secretary Gram Panchayat Raj Laxmipur Chhara Patti, Rupauli, District- Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the Respondent/s : Mr. Madan Jeet Kumar (Gp 20)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 21-03-2022 The case is being taken up from defect side.

Learned counsel for the petitioners is directed to submit the original petition along with attested affidavits and also remove all the defects



pointed out by the Registry within two weeks from today.

The petitioners by way of this writ petition assails the order dated 25.01.2022, whereby the entire counselling conducted in the district of 52 Employment Units was canceled, on the basis of recommendations made by the three Members Committee, which conducted the enquiry to the complaint relating to the counselling conducted by the District Programme Officer (Establishment), Purnia.

Learned counsel for the petitioners submits that, if there is a fault at the level of the officers, the petitioners should not be made to suffer as he has participated in the counselling and was offered appointment accordingly.

Learned counsel further submits that the petitioners could not get a proper opportunity to appear for the re-counselling conducted on 28.01.2022.

I have considered the submission and perused the report submitted by the three



Members Committee, relating to the 52 Employment Unit in the District of Purnia, this Court finds that at each Employment Unit, the counselling process was faulty and persons who are lessor in merit was placed in General Quota and higher meritorious candidates were left out. At certain places, counselling was done firstly of the Extremely Backward Classes (EBC) and later on the counselling of the general candidates have been done resulting in higher meritorious candidates belonging to EBC placed in EBC whereas in the normal course they would have been placed in general category.

Considering all these aspects and taking into consideration that certain places merit has been seriously compromised and persons with lessor merits have been appointed and higher merit candidates have been left out, the Committee took a decision to cancel the entire counseling, which has been accepted by the Directors vide impugned order dated 25.01.2022. Fresh counselling has taken place.



In the opinion of the Court, the course adopted by the Education Department cannot be said to be unjustified or illegal. The selection process, if, found to be faulty upon fully scrutinizing can be cancelled by the Administrative Authorities. The principle of estoppel would not have been any application, in such matters as there is no estoppel against law. Legal action therefore, has to be upheld and approved and a person who has entered in service by an illegal means or by a wrongful action, even though he may not be participated, but such an action, would not have a rightful claim to continue in appointment. In the circumstances, the claim of the petitioners therefore, does not have any substance.

The decision of the Director is also found to be legal and proper as decision have been applied to all the Employment Units and not to a particular Unit alone. Thus, he cannot be said that there is discrimination or disparity.

The view expressed by this Court is



supported by the law laid down by the Hon'ble Apex Court in case of (2003) 7 SCC 285 (Union of India & Ors. Vs. Rajesh P.U. Puthuvalnikathu & Anr.), (2014) 6 SCC 644 (Commissioner of Income Tax-III Vs. Calcutta Knitwears, Ludhiana), (2017) 13 SCC 621 (Gohil Vishvaraj Hanubhai & Ors. Vs. State of Gujarat & Ors.) and (2021) 4 SCC 631 (Sachin Kumar & Ors. Vs. Delhi Subordinate Service Selection Board (DSSSB) & Ors.), wherein Hon'ble Apex Court has held that for the purity of examination process the authority can take a decision to cancel the examination.

Learned counsel for the petitioners has further pleaded that the petitioners shall not given an ample opportunity to appear in the subsequent counselling. However, this Court finds that such plea is not substantiated from the fact which have come on record. The representation filed by the petitioners does not mention about any such difficulty arising in appearing in counselling. In fact, there is no such demand. On the other hand, the demand is true to cancel the subsequent



counselling being conducted on 22.01.2022.

In the circumstances, I do not find the claim of the petitioners having any basis.

Accordingly, the writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

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