

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21231 of 2021

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1. Devendra Paswan S/o Arjun Paswan, resident of Village- Mudheri, P.S.- Haveli Kharagpur, Distt.- Munger.
 2. Tandavesh Kumar, S/o Sudhir Prasad Sah, resident of Village- Mudheri, P.S.- Haveli Kharagpur, Distt.- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Patna.
2. The Principal Secretary, Education Department, Patna.
3. The District Teacher Employment Appellate Authority, Munger through the Member.
4. The District Magistrate, Munger.
5. The District Programme Officer (Establishment), Munger.
6. The Block Development Officer, Hawali Kharagpur, Munger.
7. The Block Education Officer, Hawali Kharagpur, Munger.
8. The Mukhiya, Mudheri Panchayat, Hawali Kharagpur Block, District Munger.
9. The Panchayat Secretary, Panchayat, Mudheri, Hawali Kharagpur Block, District Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Kamal Nayan, Adv.

For the Respondent/s : Mr. Kameshwar Kumar (Gp17)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 3 16-11-2022 1. The petitioner has preferred this writ petition stating that he was appointed as a Panchayat Teacher vide order dated 25.02.2007. The appointments were also issued of other teachers on 27.02.2007 which came to be challenged before the District Appellate Authority who heard the matter and vide order dated 22.05.2010, the District Teachers Appellate



Authority found the proceedings to be undertaken as legal and therefore it quashed the appointment orders of 27.02.2007. By a separate order passed on 16.01.2013, the District Teachers Appellate Authority also quashed the appointment order of the petitioner dated 25.02.2007. The petitioner challenged the order dated 16.01.2013 before this court. The persons who were affected by the order dated 22.05.2010 also preferred writ petition before this court. The writ petition of those petitioners was allowed by the Single Judge in the order dated 22.05.2010 and was set aside. An appeal bearing L.P.A. No. 880/2012 was preferred by the appellants stating that the order passed by the Single Judge was ex-parte and the appellants had not been heard. The appeal was allowed and the Division Bench set aside the order of the Single Judge dated 19.03.2012 and revived the writ petition CWJC No. 14956/2011 whereby the order of the District Appellate Authority dated 22.05.2010 was under challenge. So far as writ petition of the petitioner no. 2 is concerned, the same was disposed of on the ground that the order dated 16.01.2013 which was a consequential order of the District Teachers Appellate Authority had been set aside by the Division Bench. The petitioner's prayer was that his grievance was redressed as the order dated 16.1.2013 had been set aside in



the L.P.A. It is further noticed that upon the remand of the case to the Single Judge vide order dated 24.07.2017 the coordinate bench decided the writ petition 14956/2011 relegating the petitioners therein to file an appeal before the State Appellate Authority. The State Appellate Authority thereafter decided the appeal on 29.11.2018 and upheld the order dated 22.05.2010 passed by the District Appellate Authority held that the persons who were appointed, had not appeared in the counselling. The order of the District Appellate Authority was therefore upheld and the appointments were set aside.

2. Learned counsel's submission is that since the order of 22.05.2010 was only limited to the order dated 27.02.2007 and not to the order dated 25.02.2007, the appointment of the petitioner stands same and he should be given appointment.

3. I have considered the submission. This court notices that the orders of appointment dated 25.02.2007 and 27.02.2007 are passed on the same counsel. Admittedly, those who were not present in the counseling, had been given appointment. The State Appellate Authority has reached to the conclusion that even if they were higher in merit since they were not the present in counseling, they could not have been offered appointment. The order of the District Appellate



Authority in relation to the appointment order dated 27.02.2007 being legal has been upheld. The petitioner was having full knowledge about the pendency of the case before the Single Judge but he did not participate. He also did not move any application for impleadment before the State Appellate Authority. The Division Bench in its order has noticed that the fate of the order passed by the Single Judge dated 19.03.2012 and as they set aside the order of 19.03.2012, the order of 16.01.2013 was also set aside. The matter was remanded to the Single Judge. The petitioners should have appeared before the Single Judge and contested the case when the same was relegated to the State Appellate Authority. The petitioner should have been vigilant to have put up his submissions before the State Appellate Authority. However, nowhere he has put up before this court submission that merely because the order of 25.02.2007 has not been set aside, he should be allowed to continue while those who were appointed on 27.02.2007 would be dis-continued, is not a sufficient proposition of law. Both the appointment orders from the same counselling have the same fate. Accordingly this court is of firm view that the order passed by the State Appellate Authority would have an application in respect to the appointment of the petitioner. The petitioner has



already appeared before the State Appellate Authority.

4. Keeping in view thereto, on careful examination of the order passed by the State Appellate Authority, no interference is warranted.

5. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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Item No. 102

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