

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5317 of 2022

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Rajiv Kumar S/o Late Sakhi Chandra Paswan R/o Village - Dilawarpur Kali Tazia, P.O. and District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Human Resources and Development Department, Bihar, Patna.
2. The State Appellate Authority, 5, C.D. Niyojan Bhawan, Bailey Road, Patna - 800001.
3. The District Teacher Appointment Appellate Authority, Katihar.
4. The District Education Officer, Katihar.
5. The District Programme Officer (Establishment), Katihar.
6. The Block Development Officer, Azamnagar, District- Katihar.
7. The Block Education Officer, Azamnagar, District- Katihar.
8. The Mukhiya, Gram Panchayat Raj Mukuria, Azam Nagar, Katihar.
9. The Panchayat Secretary, Gram Panchayat Raj Mukuria, Azam Nagar, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Ataur Rahman, Adv.
For the Respondent/s : Mr. Amit Bhushan, AC to GP-17

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 06-07-2022

1. Heard the parties.

2. The petitioner assails the order passed by the District Appellate Authority and the State Appellate Authority, whereby both the authorities have rejected the claim of the petitioner for reinstatement.

3. The brief case of the petitioner is that he has been appointed as a Panchayat Teacher on the basis of the counselling conducted on 12.08.2010 and after verifying the original



certificates and mark sheets, he has been continued on the said post. No one challenged the appointment of the petitioner, and therefore, it was not within the scope of consideration by the District authority to oust the petitioner solely on the ground that his counselling was notified for 13.08.2010 and 14.08.2010 while the same was conducted on 12.08.2010. Learned counsel submits that both the District Appellate Authority and the State Appellate Authority have failed to take notice of the aspects and has wrongfully denied the benefit to the petitioner.

4. I have considered the submissions.

5. The State Appellate Authority while examining the case of the petitioner has observed that earlier the counselling was conducted on 28.02.2009, which was cancelled and a fresh date was notified for all the candidates to appear for counselling on 13th August 2010 and 14th August, 2010 but surprisingly the Panchayat Secretary and the Mukhiya conducted the counselling on 12th August, 2010 and selected the petitioner and similarly situated some other persons. The State authority has noticed as under:-

“The appellants have failed to produce any letter of the State Govt. which says that a second counselling had to be done on 13.08.2010 and 14.08.2010 by cancelling previous counselling on 28.02.2009. It is



also not explained why second counselling was done on 12.08.2010 and not on 13.08.2010 and 14.08.2010 if the Panchayat Secretary thought that a fresh counselling had to be done. It may be noted that the date of counselling has to be widely advertised. If Govt. fixes a date of counselling and publishes it in the newspapers, holding counselling on another date will mean that the candidates will be confused about actual date and on that account many of them will not be able to be present in counselling. The only purpose behind counselling on 12.08.2010 seems to be to favour certain selected candidates and deprive those who had appeared on 28.02.2009 from selection process in an illegal manner. Therefore, this Authority comes to the conclusion that counselling done on 12.08.2010 was absolutely invalid and no valid appointment could be made on the basis of that counselling. Thus it agrees with the order of the learned District Authority which cancelled appointment of all the appellants. This Authority further holds that the candidates who had appeared in counselling on 28.02.2009 but Authority finds that in his category his position was third among the present candidates and therfe was only one vacancy available in that category. Therefore, he also cannot be held to be



*entitled for appointment on the basis of counselling
held on 28.02.2009.”*

6. From perusal of the aforesaid, it is thus apparent that the State Appellate Authority has minutely examined the dispute at its own level. No jurisdictional error can be said to have been committed by the State Appellate Authority. The scope of interference under Article 227 with the orders passed by the State Appellate Authority is limited to the jurisdictional error or perversity committed in the order. This Court would not substitute its findings arrived at by the State Appellate Authority on facts.

7. No illegality thus is committed. Interference is therefore not warranted.

8. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Amit/-
Item no.53

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