

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.959 of 2018

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1. Rajendra Kumar Sah and Ors S/o Ramdeo Sah, resident of Vill. Naraharpur, P.S. Marhaurah, District- Saran.
 2. Bhagirath Ram, S/o Sadhubir Ram, Resident of Vill. Pirouta, P.S. Baniapur, District- Saran.
 3. Sabir Alam, S/o Md. Moinuddin, resident of Vill. Naraharpur Via Gaus, P.S. Marhaurah, District- Saran.
 4. Dinesh Kumar Giri, S/o Vashistha Giri, resident of Vill. Naraharpur, P.S. Marhaurah, District- Saran.
 5. Awdhesh Kumar Ram, S/o Jaksan Ram, resident of Vill. Gousa Khap, P.S. Amnaur, District- Saran.
 6. Mundrika Ram, S/o Safeda Lal Ram, resident of Vill. Gousa Khap, P.S. Amnaur, District- Saran.
 7. Md. Nayeem, S/o Md. Khalil, resident of Vill. Bakwa, P.S. Panapur, District- Saran.
 8. Gunja Kumari, D/o Praveen Kumar, resident of Aaku Chak, P.S. Taraiya, District- Saran.
 9. Chandrakala Kumari Verma, D/o K.K Singh, resident of Vill.- Rasidpur, P.S. Taraiya, District- Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secetary, Education Department, government of Bihar
2. The Collector, Saran at Chhapra.
3. The District Education Officer, Saran at Chhapra.
4. Praknad Pramukh, Block Taraiya, District- Saran.
5. Block Development Officer, Block Taraiya, District- Saran.
6. Block Education Extension Officer, Block Taraiya, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amarendra Narayan, Adv. With Mr. Dr. J.K. Verma, Adv. With Mr. Sudhir Kumar Roy, Adv. With Mr. Deepak Kumar, Adv.
For the State	:	Mr. Jai Prabhat Kishore, AC to SC-13

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

6 19-07-2022

1. Heard the parties.



2. the petitioners case is that they had applied for the post of Block Teacher in Taraiya Block under Saran District. Their names were placed finally in the merit list and the final list were resort to publish on 06.01.2009 by the Block Selection Committee. The said list was duly approved. However, the employment letter to the petitioners could not be sent within the prescribed time limit and State Government vide letter dated 24.12.2010 imposed restriction on issuing of the employment letter. The same was withdrawn subsequently vide letter dated 21.02.2011 and authorized the District Appellate Authority to consider the case on case to case basis. Accordingly, the petitioners approached the District Appellate Authority, who has dismissed their appeals vide order dated 07.09.2012 on the ground that the procedure adopted by the Committee was contrary to the prescribed procedure and, therefore, the selection is illegal.

3. The petitioners approached this Court in C.W.J.C. No. 23535 of 2012, which was decided on 9th July, 2017 granting liberty to prefer an appeal before the State Appellate Authority and accordingly the petitioners approached the State Appellate Authority, which has proceeded to reject the appeal. Hence, the petitioners are before this Court.

4. Learned counsel appearing for the petitioners submits that the Block Employment Committee had not committed any



illegality in preparing the select list and the view taken by the District Appellate Authority that the Select list would be vitiated as it contains more names than required, was not sufficient to withhold the selection process. The petitioners were much higher in merit and would have been definitely appointed had the select list put into operation.

5. Learned counsel submits that the State Appellate Authority has failed to examine the matter in the said line and has proceeded to hold that the petitioners had not placed any evidence on record as to whether the certificate obtained by the petitioners were verified by the Block Employment Committee.

6. Learned counsel submits that the State Appellate Authority erred in holding that unless the original certificates are verified, it would not be possible to direct the Block Employment Committee to consider employment.

7. Learned counsel submits that the verification of the original certificate can also be conducted after having allowed the petitioners to join.

8. I have considered the submissions, while it may be correct on part of the learned counsel's submission that the documents can be verified even after joining, however, question arises whether a Select list prepared by the Block Employment Committee could be operated upon after their being a direction



issued by the Principal Secretary. Stopping from making appointments and subsequently issuing directions for making appointments duly after green signal of the District Appellate Authority. In the opinion of the District Appellate Authority is not to allow the Selection to be conducted on the basis of the merit list prepared by the Block Employment Committee has not been examined to be correct or not by the State Appellate Authority.

9. Look at the order passed by the District Appellate Authority however reflects that there were several irregularities found in preparation of the merit list and therefore, it took an opinion not to operate the said merit list.

10. In the opinion of this Court, decision taken by the learned District Appellate Authority is based on cogent reasons and under Article 227, this Court will not substitute its opinion to that of the concerned District Appellate Authority. The power is vested in the said District Authority which has been duly exercised. It is also to be noticed that no one has been appointed from the said list and, therefore, it cannot be said that there has been discrimination per se.

11. It is also to be noticed that the Employment Rules of 2006 were replaced by the Employment Rules of 2012. The criteria and procedure for employment of teachers has been modified after the coming into force of the Employment Rules of



2012. Thus after coming into force of Employment Rules, 2012, the earlier select list could not have been made operative and has rightly not made operative. The Hon'ble Apex Court in the case of **Shankarsan Dash Vs. Union of India, (1991) 3 SCC 47** has held that mere inclusion of candidate in the merit list gives no indefeasible right to appointment even if vacancy exists.

12. Keeping in view above, it is thus apparent that no order can be passed to direct appointment of the petitioners, once the State Government itself decide not to give appointment from the said list and later on made it to be subject to the directions of the District Appellate Authority, who has issued orders not to operate the said merit list.

13. Thus, in view thereof, the writ petition is found to be devoid of merits and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 7

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