

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.705 of 2018

Om Prakash Kumar S/o Harendra Chaudhary resident of Village - Ashogi
Chapra, Post - Bedaul, P.S. - Purnahiya, District - Sheohar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Principal Secretary, Urban Development Department, Govt. of Bihar, Patna.
4. The Chairperson, State Appellate Authority, Education Department, Bihar, Patna.
5. The Director, Secondary Education, Bihar, Patna.
6. The District Magistrate, Sitamarhi.
7. The Secretary, District Appellate Authority, Sitamarhi.
8. The District Education Officer, Sitamarhi.
9. The District Programme Officer Establishment, Sitamarhi.
10. The Executive Officer, Nagar Panchayat, Bairgania-cum-Secretary, Nagar Panchayat, Teacher's Employment
11. The Block Education Officer, Bairgania, District - Sitamarhi.
12. Ranee Kumari D/o Ram Shiv Balak Singh resident of village P.O. Kamaldah Via - Majhauria Estate, P.S. - Bathnaha, District - Sitamarhi.
13. Mukesh Kumar S/o Mahendra Prasad Government High School, Bairgania, P.S. - Bairgania, District - Sitamarhi.
14. Shyam Kumar S/o Laxmi Singh Project Girls High School, Bairgania, P.S. - Bairgania, Sitamarhi.
15. Hemlata Kumari D/o Nathuni Sah Jauharimal High School, Bairgania, P.S. - Bairgania, Sitamarhi.
16. Dilip Kumar S/o Laxman Kumar Govt. High School, Bairgania, P.S. Bairgania, Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sunil Kumar Verma, Adv.
For the Respondent/s	:	Mr.Jitendra Kr. Roy No.1- Sc13
For respondents 12, 13, 14 & 16	:	Mr. Kripa Nand Jha, Adv. With Ms. Sandhya Kumari Sinha, Adv.
For respondent no. 16	:	Mr. Dilip Kumar, Adv. With Mr. Shekhar Kumar Singh, Adv.



**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

5 29-11-2022

1. Heard the parties.

2. The petitioner by way of this writ petition assails the order dated 07.09.2017, passed by the State Appellate Authority, whereby one appeal preferred by Rane Kumari against the order of the District Appellate Authority, Sitamarhi dated 24.03.2017 was allowed and it was held as under:-

“In view of the above, the appeal filed by the appellant, Rane Kumari is allowed and it is ordered that she may be reinstated as Secondary Teacher (Social Science) immediately. The impugned order passed by the District Authority on 24.03.2017 is set aside to the extent that the employment of the appellant shall not be cancelled (if it has not already been cancelled) and she will be reinstated as Secondary Teacher (Social Science) if her employment has been cancelled in compliance of the impugned order of the learned District Authority.

The appeal is allowed and the impugned order of Learned District Appellate Authority, Sitamarhi is modified to the extent as directed above.”

3. Learned counsel for the petitioner submits that the



petitioner had filed the appeal before the District Appellate Authority, Sitamarhi, assailing the procedure adopted by the Employment Unit in making selections. In the said process, he was assailing the entire selection and, therefore, Rane Kumari could not have been granted relief by the State Appellate Authority. Though, he admits that Rane Kumari possessed higher merit than him.

4. I Have considered the submissions, it is a case where the petitioner preferred an appeal before the District Appellate Authority, assailing the action of appointing person lesser in merit to him by the Employment Unit. By challenging the said selection process, initially two persons were impleaded as respondents, whereafter three more persons were impleaded as respondents by the District Appellate Authority, though higher in merit in comparison to the petitioner appellant. The District Appellate Authority proceeded to hold that though the merit list was prepared, however, the petitioner appellant was not communicated the date of counselling and, therefore, the selection process was held to be irregular and unjustified and, therefore, the entire selection process was cancelled and appointment given to five teacher was quashed.

5. The respondent Rane Kumari challenged the said



order before the State Appellate Authority pointing out that the merit list was duly notified and though the petitioner was placed in the merit list, he did not choose to appear for counselling, the date of counselling was notified to all. The Executive Officer, Nagar Panchayat filed a counter affidavit before the State Appellate Authority and stated that there was a provisional merit list of 13 candidates prepared and name of the petitioner figured at serial no. 10. In the final merit list his name appeared at serial no. 1 in unreserved category, but he did not present himself on the counselling date held on 23.03.2015 and, therefore, employment letter was not issued to him. The State Appellate Authority also found that Rane Kumari was having higher merit and she has no lis with the petitioner. In view thereof, it proceeded to hold the action of the District Appellate Authority in adding the persons having higher merit as party to the appeal as unjustified. It also held that the petitioner did not appear for counselling although date was notified. On both the counts, therefore, the order was modified to the extent that the employment of appellant namely Rane Kumari was not to be cancelled and was directed to be reinstated.

6. In the opinion of this court, since the petitioner has no lis as against the concerned appellant who preferred an



appeal before the State Appellate Authority, the writ petition is wholly mis-conceived and is accordingly found to be without any cause of action arising against the order of the State Appellate Authority, which is in pursuance to Rane Kumari alone.

7. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 85

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