

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5516 of 2021

1. Manoj Kumar Gupta, Son of Banarsi Sah, resident of Village-Ailay, P.O. and P.S.-Chand, District-Kaimur (Bhabhua).
2. Ashok Kumar Dwivedi @ Ashok Dwivedi, Son of Ram Sundar Dwivedi, resident of Village-Sohar, P.S.-Chand, District-Kaimur (Bhabhua).
3. Chandrajit Singh, Son of Tribhuwan Singh, resident of Village and P.O.-Dumarkon, P.S.-Chainpur, District-Kaimur (Bhabhua).

... .. Petitioners

Versus

The Block Development Officer, Chainpur, P.S. and P.O.-Chainpur, District-Kaimur (Bhabhua).

... .. Respondent

Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Verma, Sr. Advocate Mr. Prashant Sinha, Advocate
For the Respondent/s	:	Mr. Jitendra Kumar Roy-1, SC-13 Ms. Usha Kumari Singh, AC to SC-13

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 20-06-2023

Heard Mr. Rajeev Kumar Verma, learned Senior Counsel assisted by Mr. Prashant Sinha, learned counsel for the petitioners and Mr. Jitendra Kumar Roy-1, learned counsel for the State.

Brief Facts of the Case

2. Petitioners in the present case are questioning the order dated 16.03.2020 passed by the State Teachers Appellate Authority in Appeal No. 95 of 2019 whereby the appeal preferred by the respondent Block Development Officer, Chainpur has been allowed and the order dated 21.03.2014 passed by the learned



District Teachers Employment Appellate Authority, Kaimur, Bhabhua in Appeal No. 14 of 2013 has been set-aside.

3. The petitioners further pray for allowing them to join on the post and pay them all the consequential benefits.

4. In this case, as back as on 16.05.2022 while issuing notice to the respondents, learned counsel for the State was granted time to file counter affidavit before the next date. The case was fixed after eight weeks but it has been taken up at this stage after one year.

5. Till date, no counter affidavit has been filed on behalf of the State respondent. No plausible reason has been explained to this Court as to why no counter affidavit has come till date.

Submissions on behalf of the Petitioner

6. Learned Senior Counsel for the petitioners has assailed the impugned orders on various grounds. It is firstly submitted that the learned Appellate Authority did not consider the question of limitation which was specifically raised on behalf of the private respondents in the appeal. It is further submitted that on identical facts several other orders were passed by the District Appellate Authority in respect of other teachers appointed by the same Block Development Officer. The case of these petitioners was registered as Appeal No. 14 of 2013 and it was heard along



with the other appeals. All the appeals were allowed by the District Appellate Authority as back as on 21.03.2014 but the Block Development Officer did not prefer any appeal in respect of the other appeals. This Court, in fact, recorded in its order dated 14.02.2017 passed in CWJC No. 4694 of 2015 in respect of another appeal that the order passed by the District Appellate Authority has attained finality, therefore, it is required to be implemented.

7. In its another order dated 15.02.2017 passed in CWJC No. 4904 of 2015, in respect of yet another appeal the learned Writ Court once again held that the order of the District Appellate Authority has attained finality and a direction was issued to the respondents to implement the order dated 21.03.2014 passed by the District Appellate Authority. Thus, in respect of Appeal No. 15 of 2013 and Appeal No. 16 of 2013 no appeal was preferred by the Block Development Officer and after the orders passed by this Court in the two writ petitions, the order of the District Appellate Authority in respect of those appeals has been implemented.

8. Learned Senior Counsel further submits that so far as the case of these petitioners are concerned, they had also come to this Court in CWJC No. 15016 of 2015. This writ application was heard and disposed of by a learned Writ Court vide order dated



06.12.2018. At this stage, the official respondents took a plea that this case involves forgery in the process of appointment and as such, the Court should grant reasonable time to the State to approach the appropriate authority.

9. It is submitted that considering the submissions of the respondents, the learned Writ Court observed that by way of an exception, the Court is granting two months' time to the respondents to either implement the order of the Appellate Authority in its letter and spirit or get the order of the Appellate Authority set-aside or stayed in appropriate proceeding. It is submitted that the Writ Court did not specifically condone the delay so it was left open for the Appellate Authority to consider the appeal on its own merit. Before the Appellate Authority when the appeal was preferred on 30.01.2019 giving rise to Appeal No. 95 of 2019, the private respondents appeared and raised the plea of limitation which was not considered.

10. In the aforementioned background, it is submitted that the Block Development Officer, Chainpur has applied two different yardsticks to contest the case of the petitioners on the one hand and the others identically situated on the other hand. While the others who are identically situated have been taken back in



service and they are getting the fruits of employment, the petitioners have been deprived of the same.

Submissions on behalf of the State

11. Learned counsel for the State submits that so far as the case of these petitioners are concerned, the Appellate Authority has dealt with the case on its own merit. The reason for non-filing of appeal in other cases cannot be explained by him in absence of any counter affidavit but according to him one thing is clear from the order dated 06.12.2018 passed by the learned Writ Court in CWJC No. 15016 of 2015 that the case of these petitioners was treated exceptionally and after noticing the submissions that the appointments of the petitioners have been done by committing forgery, the learned Writ Court permitted the Block Development Officer to approach the State Teachers Appellate Authority and get the orders either set-aside or stayed within a period of two months.

12. It is submitted that within the given period of two months, the Block Development Officer filed an appeal before the Appellate Authority. The same has been considered on its own merit. The Appellate Authority noticed the observations of the learned Writ Court and keeping in view the observations of the learned Writ Court, the Appellate Authority proceeded to consider the appeal on its own merit. It is submitted that in exceptional



circumstance, once the learned Writ Court permitted the Block Development Officer to challenge the order of the District Appellate Authority within a given period, the limitation would not come in the way of hearing of the appeal on its own merit.

13. Learned counsel for the State has further defended the order of the Appellate Authority on the grounds inter alia that the District Education Officer under whose signature the appointment letters were said to have been issued has specifically denied his signature on the appointment letter. Further the DPO (Accounts and Planning), Kaimur has stated on affidavit that the letter dated 13.07.2012 alleged to have been issued from his office to the handwriting expert of Jaunpur was never issued from his office and in fact no letter was issued from his office on 13.07.2012 to handwriting expert Mr. Vikas Srivastava who has given an opinion that the signature on the employment letter tallies with the signature of Mr. Gopal Saha, the then Block Development Officer, Chainpur.

14. Learned counsel points out from the impugned order that the learned Appellate Authority has rightly relied upon the submission that there is full-fledged Forensic Science Laboratory of the Police Department in Patna and any handwriting or finger-



print has to be referred to by a Government officer/Department for verification to Forensic Science Laboratory, Patna.

15. Learned counsel, therefore, submits that the District Appellate Authority had wrongly relied upon the report of Mr. Vikas Srivastava, the handwriting expert.

16. It is lastly submitted that this Court while exercising its power in the nature of Writ of Certiorari does not sit in appeal over the judgment of the authority and it would not substitute its own opinion in the place of the opinion of the authorities unless it is found that the findings of the Authority are perverse.

Consideration

17. This Court has heard learned Senior Counsel for the petitioners and learned counsel for the State as also perused the records. While it is true that this appeal was preferred by the Block Development Officer after a lapse of about six years from the date of passing of the order by the District Appellate Authority but at the same time, it is evident from the order of this Court passed in CWJC No. 15016 of 2015 that this Court had taken notice of the plea of the Block Development Officer that this case involves forgery in the issuance of appointment letter and only after noticing that, this Court treated the present case as an exceptional one and granted time for a period of two months to the respondents



to either implement the order of the Appellate Authority or get the order of the Appellate Authority set-aside or stayed in appropriate proceeding. Thus, by virtue of the liberty granted by the learned Writ Court, the Block Development Officer chose to prefer an appeal before the Appellate Authority and the same was filed well within a period of two months. Thus, the appeal was entertained on its own merit. The appellate order also refers to the fact that in the matter of the irregularities committed in the employment of Block Teachers in Chainpur Block, a police case being Chainpur P.S. Case No. 184 of 2012 dated 01.11.2012 was lodged by the then Block Development Officer, Chainpur. The petitioners have not informed this Court as to whether the said police case is still under investigation.

18. Learned Senior Counsel for the petitioners has though made an oral statement at the Bar that the petitioners are not accused in the said case but there is no pleading to that effect in the writ application.

19. Be that as it may, certain findings of the Appellate Authority which have not been contested by the petitioners in the present writ application are worth noticing by this Court. There is a finding of the Appellate Authority that the process of second phase of employment was concluded and closed in December,



2010 and in this regard the Principal Secretary, Human Resources Development Department had issued letter no. 1475 dated 04.12.2010 fixing 28.12.2010 as the last date for issuance of the employment letter to the selected candidates as Block Teacher. The Principal Secretary, Human Resources Development Department had directed that the employment letter issued after 28.12.2010 shall not be valid and no employment could be made after the said fixed date.

20. It is further recorded in the appellate order that when the employment letter was not issued to some of the selected Block Teachers on 28.12.2010 and several selected candidates filed representation for issuance of employment letter to them, the Human Resources Development Department again issued letter no. 207 dated 21.02.2011 authorizing the District Authority to consider and decide on case to case basis. It is not the case of the present petitioners that they had made any representation in this regard after 28.12.2010 and any decision was taken on receipt thereof whereafter the employment letters were issued to them on 08.06.2012.

21. There is a categorical finding in the appellate order that the alleged employment letters of the private respondents in appeal were issued on 08.06.2012 without any direction or



permission of the Department and also without any specific direction in this regard by the District Authority.

22. The another finding of the Appellate Authority that the DPO (Accounts and Planning), Kaimur has filed an affidavit stating that the letter dated 13.07.2012 alleged to have been issued from his office to the handwriting expert of Jaunpur was never issued from his office, has not at all been challenged by the petitioners. If this finding is not disturbed then it is a case, prima facie, suggesting that the contention of the Block Development Officer that no letter was issued from the office of the DPO (Accounts and Planning), Kaimur on 13.07.2012 must be accepted and in such circumstance, the District Appellate Authority would be taken to have grossly erred in accepting the views of Mr. Vikash Srivastava, the handwriting and finger-print expert, Jaunpur.

23. In the opinion of this Court, the Appellate Authority has rightly taken a view that there is full-fledged Forensic Science Laboratory of the Police Department in Patna and any handwriting or finger-print has to be referred to by a Government Officer/Department for verification to Forensic Science Laboratory, Patna. The plea of the petitioners that the signature of the Block Development Officer, Chainpur was sent for verification to a private expert in Jaunpur instead of sending the same to a full-



fledged Forensic Science Laboratory of the State Government has been rightly taken to be an absurd submission on the face of it.

24. In the nature of the submissions advanced before this Court, this Court has to weigh the submissions of both the parties keeping in view the principles on which a Writ of Certiorari may be issued. This Court sitting under Article 226 of the Constitution of India is certainly not exercising a power of Appeal over the judgment of the State Appellate Authority. The judgment of the Appellate Authority is a well-reasoned judgment and this Court finds no reason to take any other view.

25. The plea of learned Senior Counsel for the petitioners that in case of identically situated persons, no appeal has been preferred by the Block Development Officer could by no way help these petitioners.

26. In the opinion of this Court, if the Block Development Officer, Chainpur or any other authority of the State did not prefer an appeal, the reasons for which is not known to this Court, it is for the competent authority in the Department who has to examine this aspect and take an appropriate view as regards the conduct of the then Block Development Officer or other authorities who had to take decision with regard to filing of the appeal or not. In a case involving an act of alleged forgery in the



matter of issuance of employment letter, the plea of the Block Development Officer in the case of these petitioners was noticed by this Court and then he was given liberty to file an appropriate proceeding to get set-aside the order of the District Appellate Authority.

27. This Court would, thus, confine its consideration only with regard to the case of these petitioners.

28. In the light of the discussions made hereinabove, this Court finds no reason to interfere with the impugned judgment.

29. This writ application would fail. It is dismissed accordingly.

30. Let this order be communicated to the Additional Chief Secretary, Department of Education, Government of Bihar to look into the matter as regards the reasons for non-filing of appeal in case of others who are said to be identically situated. Such considerations would, however, be independent exercise in administrative domain and this Court for the present is not recording any view thereon.

(Rajeev Ranjan Prasad, J)

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CAV DATE	
Uploading Date	21.06.2023
Transmission Date	

