

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.328 of 2023

In

Civil Writ Jurisdiction Case No.421 of 2023

=====

Md. Faiyaz Chand, S/o Md. Iftekhar Ahmad, Resident of Village- Imansaray,
P.S.- Patori, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through the Principle Secretary, Education Department, Govt. of Bihar.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Samastipur.
4. District Programme Officer, (Asthapna), Education Department, Samastipur.
5. The Executive Officer, Nagar Parishad, Shahpur Patori, District- Samastipur.
6. The Block Education Officer, Patori, Samastipur.
7. The Panchayat Secretary, Hasanpur, Surat, District- Samastipur.
8. The Panchayat Selection Committing, Hasanpur, Surat, Panchayat, Samastipur.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Ms.Mahasweta Chatterjee, Advocate
For the Respondent/s : Smt. Shilpa Singh, GA 12

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-07-2023

The appellant-petitioner is aggrieved with the judgment of the learned Single Judge, which directed the appellant to approach the District Appellate Authority/State Appellate Authority for redressal of his grievance.

2. Learned counsel appearing for the appellant would specifically point out that the decisions referred to by the



learned Single Judge has no application to the appellant.

3. The learned Government Pleader submits that the decisions referred to in the impugned order, were challenged in appeal and they were remanded for fresh consideration before the learned Single Judge. He submits that a similar order could be passed. However, learned counsel appearing for the appellant strongly opposes the prayer; reiterating that the judgments referred to have no application to the appellant.

4. CWJC No. 5489 of 2020, and connected case, was disposed of vide order dated 23.02.2022, which is produced as Annexure-1. The petitioners therein were teachers, who prayed for grant of Matric Trained Pay Scale. The learned Single Judge found that there could be no consideration of the disputed questions of fact raised in the writ petition and directed constitution of a District Appellate Authority for redressal of the grievance. CWJC No. 34 of 2022 was also in an identical matter wherein the very same directions were issued. In writ appeal, we find that the Division Bench held that the petitioners had no right to approach the District Appellate Authority, which was constituted for a totally different purpose. The writ petitions were hence restored to the files of the learned Single Judge, as seen from the order dated 18.01.2022 in LPA No. 255 of 2022,



produced as Annexure-2.

5. Since, the decisions are not applicable, we were of the opinion that the matter could be remanded for consideration to the learned Single Judge. The learned counsel appearing for the appellant but, requested a considerations of the matter, which we agreed too.

6. The appellant-petitioner in the writ petition sought for conduct of counselling in Hasanpur Surat Panchayat immediately and to issue appointment letters to the selected candidates. The petitioner was a candidate, who applied pursuant to an advertisement in July, 2019 for appointment to the post of Panchayat Teacher in different districts throughout Bihar. In Hasanpur Surat Panchayat, five posts were advertised, out of which one post was for Urdu Teacher. The petitioner is a Post-graduate in Political Science and History and has a B.Ed and M.Ed degree. After the applications were filed, the Hasanpur Surat Panchayat was declared to be an urban area by Notification dated 03.03.2021. Within the District of Samastipur wherein Hasanpur Surat Panchayat is also located, counselling was started in five phases and selections were made by the Selection Committee after counselling of the candidates. However, no counselling was carried out in Hasanpur Surat



Panchayat despite five posts having been advertised within the Panchayat. It is in this context, the petitioner seeks conduct of counselling and appointment of selected persons.

7. Admittedly, the said Panchayat has been declared as an urban area and there could not be any appointments made of Panchayat Teachers for which the selection was intimated. In fact, the petitioner himself admits that selection to all other Panchayats in the district occurred earlier. Mere fact that a selection was initiated does not create any vested right on the candidate to be appointed to the post.

8. We also notice that the appellant has produced Annexure-7 in the appeal by way of a supplementary affidavit, which speaks of counselling being done in such selection units where it had not been done on the directions of the High Court of Patna on March 17th, 18th and 20th. If there was counselling done in the subject unit, of which the petitioner is concerned with, we would not require it to be upset. But, if on conversion to an urban area, no counselling is contemplated, we cannot issue directions for carrying out such counselling.

9. We find no reason to allow the prayers in the writ petition, we reject the appeal and as a consequence, reject the writ petition also on the reasoning above.



10. Ordered accordingly.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27.07.2023
Transmission Date	

