

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.359 of 2019

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Yashwant Singh S/o Sri Deoki Singh Vill.- Champi, P.O.- Sri Rampur, P.S.-
Sherghati, Distt.- Gaya

... .. Appellant/s

Versus

1. The State of Bihar and Ors through its Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary Hyman Resources Development Department , Govt. of Bihar, patna
3. The District Education Officer Gaya
4. The Block Education Extension Officer Sherghati, Gaya
5. The Block Development Officer Sherghati, Gaya
6. Champi Gram Panchayat through Panchayat Secretary, Champi Gram Panchayat, Sherghati, Gaya
7. Mukhiya Champi Gram Panchayat Sherghati, Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dudheshwar Singh, Advocate
For the Respondent/s : Mr. Ashutosh Ranjan Pandey (AAG-15)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-07-2023

The petitioner who failed to get selected as a Shiksha Mitra approached this court with a writ petition; which is rejected by the impugned order in appeal. The learned counsel appearing for the appellant pointed out that the writ petition was dismissed by a cryptic order with absolutely no reasoning. It was contended that the appellant, a person who had 40% disability, was the best candidate available and he ought to have



been selected. It is also contended that the decision of the Full Bench relied on by the Learned Single Judge, without reference to even the citation, was ***Kalpana Rani Vs. State of Bihar & Ors., 2014 (2) PLJR 665***. Therein, the finding was that on the abolition of the post of Shiksha Mitra, in the year 2006, none who were appointed later on contractual basis should seek regularization. However, the selection in which the petitioner participated and unfortunately failed was in the year 2003. If he were selected, he could have continued, is the specific contention raised.

2. As per the averments in the writ petition, the District Magistrate, Gaya *vide* a notification dated 04.01.2003 notifying the Mukhiyas of Gram Panchayats within Gaya regarding contractual appointment of Panchayat Shiksha Mitras. The petitioner applied for the post of Shiksha Mitra at Champi Panchayat on 16.01.2003 along with all the requisite documents along with other eligible candidates. A list of candidates is prepared, as is seen from annexure-4, and there was also an interview conducted on 28.01.2003 at the premises of primary school, Jamuin, Shergati and five candidates were selected for Shiksha Mitra. The petitioner, according to him, was the most suitable candidate, but he did not figure in the select list and he



made a representation in writing on 17.02.2003 to the District Magistrate produced an Annexure-6. The B.D.O., Shergati, District Gaya issued a notice to the persons who had challenged the selection by Annexure-7 and afforded them an opportunity of hearing. It is contended that nothing was done after the hearing and that the petitioner again followed up the matter with a representation before the District Magistrate, produced as Annexure-9. The said representation was forwarded to the Appellate Authority which considered it as Case No. 18/2012 but rejected the claim, specifically finding that the post of Shiksha Mitra was abolished since 01.07.2006. Annexure-10 order of the Appellate Authority is challenged on the ground that if the petitioner had been appointed in the selection conducted in 2003, there would be no question of him being sent out in the year 2006. Kalpana Rani (*supra*) was a case in which the appellant raised a complaint with regard to anomalies in the selection and appointment of the writ petitioner to the post of Panchayat Shiksha Mitra in 14.09.2006. The writ petitioner was appointed in the year 2003 and having been continued in the said post was also regularized on 1st of July, 2006. As per the Panchayat Elementary Teacher (Employment And Service Conditions) Rules, 2006, the executive instructions relating to



engagement to the post of Panchayat Shiksha Mitra were abolished. The complaint itself was filed on 14.09.2006 when the Rules of 2006 came into force and before that, the writ petitioner's appointment was never challenged. It was held that there was no right accrued under the repealed circular of Panchayat Shiksha Mitras much less any right on the complainant to be appointed in the place of the writ petitioner. It was categorically held that after 01.07.2006, no person who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his/her name figured in the list of 'Panchayat Shiksha Mitra'. The decision of the Full Bench is squarely on the facts arising in the present case also.

3. In the present case also, the writ petitioner participated in a selection in the year 2003. He is said to have raised an objection regarding the selection before B.D.O., Shergati which was not at all followed up, nor the selection challenged by an appropriate proceeding before Court. It was in the year 2012 that again the petitioner sought to revive his claim by an application to the District Magistrate which was forwarded to the Appellate Authority and which stood rejected. In 2012, the post of Shiksha Mitra was abolished and the petitioner had absolutely no claim. There could be no review of



the selection made prior to the abolition and the petitioner declared as selected to the said post and enabled regularization; which will be akin to putting the clock back to save time.

4. We find absolutely no reason to entertain the appeal and dismiss the same, leaving the parties to suffer their respective costs.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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