

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12931 of 2019

Nutan Kumari D/o Ram Narayan Mandal Resident of Village- Kumar Khand,
Ward No.- 12, P.S.- Kumar Khand, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Human Resources Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Department of Human Resources, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Madhepura.
4. The District Education Officer, Madhepura.
5. The District Teacher Employment Authority Madhepura, District-Madhepura.
6. The District Programming Officer (Establishment), District- Madhepura.
7. The Block Development Officer, Kumarkhand Block, Kumarkhand, District-Madhepura.
8. The Block Education Officer, Under Block- Kumarkhand, District-Madhepura.
9. The Mukhiya of Under Gram Panchayat of Kumarkhand, Post Office and Police Station Kumarkhand, District- Madhepura.
10. The Panchayat Secretary of Under Gram Panchayat Kumarkhand, Post Office and Police Station Kumarkhand, District- Madhepura.
11. Babita Kumari Baby W/o Sachidanand Yadav Resident of Village- Gadhia, P.O. and Police Station- Kumarkhand, District- Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	: Mr. Siyaram Sahi, Adv. Mr. Ajay Kumar Jain, Adv.
For the Respondent no. 11	: Mr. Anil Kumar Jha, Sr. Adv. Mr. Shekhar Kumar Singh, Adv. Mr. Pooja Kumari, Adv.
For the State	: Mr. Manjeet Kumar, GP 20

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

6 16-01-2023 1. The petitioner by way of this writ petition assails the order passed by the State Appellate Authority, whereby the contention raised by the petitioner before the District Appellate



Authority were found to be false and the appeal preferred by the Respondent no. 11 was allowed.

2. Learned counsel for the petitioner submits that the petitioner has higher merit and she was directed to be appointed by the concerned District Magistrate whereafter, the appointment offered to her against which the litigation was taken up by the Respondent no. 11. The petitioner was never called for counseling and she was wrongly shown as absent.

3. Learned counsel appearing for the Respondent no. 11 appellant before the State Appellate Authority has taken this Court to the document showing that the petitioner had actually appeared for counseling in another Panchayat Rauta on that day which the petitioner has not denied in her reply to the counter affidavit.

4. The findings of fact have been arrived at by the State Appellate Authority as under:

“In the present case also, the evidence shows that the private respondent did not appear in counselling. Private respondent has herself claimed that she appeared in the counselling. Thus finding of learned District Authority that not notice was issued for the counselling, is not based on any evidence. B.D.O., Kumarkhand has



also not applied his independent mind to decide that cancellation of the employment of the appellant. Hence, I find and hold that the cancellation of employment of the appellant without any valid order of the competent authority, B.D.O., Kumarkhand and employment of the private respondent in her place, without appearing in counselling, is illegal and fit to be quashed.

In the result, the appeal is allowed and the impugned order dated 27.02.2013 passed by learned District Teacher's Employment Appellate Authority, Madhepura in Appeal No. 156/2011 is set aside. Consequentially, the employment of the private respondent Nutan Kumari is cancelled and the Panchayat Teachers Employment Committee, Kumarkhand, Mukhiya, Kumarkhand and Panchayat Secretary, Kumarkhand are directed to re-employ the appellant.

The order may be implemented within 60 days from the date of production/receipt of a copy of the present order."

5. Keeping in view the said findings, this Court under Article 227, would not enter into the said aspects. This Court



only examines the decision making process and not the actual decision taken by any Judicial or Quasi Judicial Authority.

6. Keeping in view the aforesaid, no interference is warranted.

7. The writ petition is dismissed accordingly.

(Sanjeev Prakash Sharma, J)

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