

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11578 of 2022

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Zila Parishad Begusarai through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Secondary Education Department of Education, Govt. of Bihar, Patna.
2. Chandan Kumar Singh S/o Ram Naresh Singh, Resident of Village- Mao, P.S.- Vidyapatinagar, District- Samastipur.
3. The State Appellate Authority, Education Department, Government of Bihar, Niyojan Bhawan, Bailey Road Patna, through the Secretary.
4. The District Appellate Authority, Begusarai through the Secretary.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Asit Kumar Jha, Advocate
For the Respondent/s : Mr. Subhash Chandra Mishra (SC16)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 09-02-2023 The Zila Parishad, through its Deputy Development Commissioner-cum-Chief Executive Officer has preferred this writ petition assailing the order of the State Appellate Authority, whereby their appeal preferred against the order passed by the District Appellate Authority was rejected.

2. Learned counsel for the petitioner submits that the direction of the District Appellate Authority for re-counselling would result in removing the teachers, who have already been appointed, and the judgment passed by the District Appellate Authority, as confirmed by the State Appellate Authority, is erroneous.



3. I have considered the submissions.

4. The selection was to be conducted for the post of Librarian in the different Secondary and Higher Secondary Zila Parishad School.

5. The respondent no.2 preferred an appeal before the District Appellate Authority, Begusarai pointing out that he possesses 60.36% marks but in spite of presenting himself for counselling, he was not allowed to participate, while the persons having lesser merits, were offered appointment.

6. The respondents alleged partiality and a highhanded action taken at the level of the petitioner/employment unit committee, who deliberately and intentionally did not allow to participate in the counselling.

7. The District Appellate Authority allowed his appeal with directions to the Zila Parishad Niyojan Samiti/Employment Unit Committee to hold counselling of the respondent afresh and proceed to complete the process of appointment strictly in accordance with merit list. It also allowed that the Zila Parishad Niyogan Samiti/Employment Unit Committee would make corrections in the final list of selected and appointed candidates of the Librarians.

8. The petitioner preferred an appeal on the ground



that its Employment Committee took a decision to allow only those candidates who had appeared upto 12.00 O'clock and as the respondent no.2 appeared after 12.00 O'clock, he was disallowed to participate.

9. The State Appellate Authority has examined the order passed by the District Appellate Authority and found that there were five candidates, who had been deprived from participating in counselling on the basis of a decision taken by the Employment Committee not to allow the candidates, who had appeared after 12.00 O'clock. It also noticed that no time was prescribed for counselling and, therefore, held such action to be illegal and unjustified and therefore ordered that all the five candidates, who had appeared for counselling, should be included in the re-counselling and the Employment Unit Committee would take a fresh decision about employment, in accordance with the approved merit list.

10. The grievance of the petitioner before this Court about such order, resulting in further litigation, is wholly misconceived. The affected persons, who were also employed with the petitioner, have not challenged either order of the District Appellate Authority or themselves impleaded as party before the State Appellate Authority. The decision of the State



Appellate Authority is wholly justified as it allows all the candidates, who appeared for counselling earlier, to participate in the re-counselling. The order of the District Appellate Authority has been modified to this extent, which appears to be inconsonance with the principles of Article 14 of the Constitution of India.

11. No interference is, therefore, warranted in the order passed by the State Appellate Authority.

12. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Chn/-
Item No.35

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