

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13130 of 2022

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Ajay Kumar Son of Sri Ram Pukar Yadav, Resident of Village - Saguniya,
Police Station - Baheri, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director (Primary Education) Education Department, Government of Bihar, Patna.
4. The District Education Officer, Darbhanga.
5. The District Programme Officer (Establishment), Darbhanga.
6. The Block Education Officer, Baheri, District - Darbhanga.
7. The Panchayat Secretary, Gram Panchayat Raj, Dhanauli, Block - Baheri, District - Darbhanga.
8. The Mukhiya, Gram Panchayat Raj, Dhanauli, Block - Baheri, District - Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satish Chandra Jha 3
	:	Mr. Shambhu Kumar Suman
For the Respondent/s	:	Mr.Kameshwar Kumar (Gp 17)
	:	Mr. Amit Bhushan (Act to Gp17)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 5 09-10-2023 1. Heard the parties.
2. The petitioner has challenged the order passed by the State Teachers Appellate Authority, Patna, Bihar, dated 18.02.2022 in appeal No. 121 of 2020 whereby the appointment of the petitioner made, in compliance of the order, dated 07.03.2020, passed by the District Teachers Appellate Authority in appeal No. 23 of 2019 have been cancelled with further direction that the petitioner shall



not be entitled for any salary or remuneration for the period he has worked and if any payment has been made then the D.E.O. shall take steps for its recovery. In compliance of the impugned order passed by the State Teachers Appellate Authority, Patna, Bihar, order bearing memo number 845 dated 21.03.2022, has been issued by District Education Officer, Darbhanga, terminating the services of the petitioner.

3. The case of the petitioner is that, in the year 2008, appointment process, for the post of Panchayat Teachers, started in Dhanauli Gram Panchayat at Baheri Block, Darbhanga. The petitioner applied for the appointment on the post of Panchayat Teacher, appeared before the Selection Committee, provisional merit list was prepared and final merit list was issued after approval from Block Education Officer.
4. The petitioner was selected for appointment but due to Lok Sabha elections, the appointment letter was not issued by the Panchayat Secretary.
5. After 10 years, for the first time, the petitioner filed an appeal in the year 2019 before the District Teachers Appellate Authority, Darbhanga, bearing appeal No. 23 of



2019 which was allowed by order, dated 07.03.2020, with a direction to issue appointment letter in favour of the petitioner and accordingly, the appointment letter was issued to the petitioner on 18.03.2020. The Block Education Officer challenged the order of the District Teachers Appellate Authority before the State Teachers Appellate Authority and the order passed by the State Teachers Appellate Authority has been impugned in the present writ application.

6. Learned counsel for the petitioner argued that the District Teachers Appellate Authority has passed the order after considering the entire facts. In compliance with the order, the appointment letter was issued. The State Teachers Appellate Authority has exceeded its jurisdiction by setting aside the order of the District Teachers Appellate Authority and directing recovery of the salary paid to the petitioner.
7. Learned counsel for the State argued that there is no infirmity in the order passed by State Teachers Appellate Authority. The order passed by the District Teachers Appellate Authority is illegal and is based upon the consent given by the Panchayat Secretary having no



authority in law. He next submits that appointment process completed in 2008-09 and after a lapse of ten years, the petitioner approached the District Teachers Appellate Authority and obtained the order in his favour. The Panchayat Secretary, without any prior permission of the department, made appointment against non-existent post and the department was informed only after issuance of appointment letter in favour of the petitioner and others. The Panchayat Secretary misled the learned District Teachers Appellate Authority about availability of vacancy, in connivance with the petitioner. There was only one vacant post in the said Panchayat which was reserved for female against which Hira Kumari was appointment on 14.08.10 itself.

8. Having heard learned counsel for the parties and having gone through the relevant facts and the materials on record, it transpires that the District Teachers Appellate Authority issued direction for issuance of appointment letter to the petitioner and 4 other persons, on the basis of the consent given by the Panchayat Secretary that five posts were vacant in the Panchayat against which appointment can be made if the order, in this regard, is



passed by the District Teachers Appellate Authority. The order of District Teachers Appellate Authority was passed only in the presence of the Panchayat Secretary and without serving notices and informing the superior officer including the B.E.O. and other authorities. *Vide* letter No. 1506, dated 26.07.2012, Education Department issued guidelines clarifying that vacant post of first and second phase i.e., 2006 and 2008, shall be treated as backlog vacancies and shall be merged into 2012 vacancies. Thus, all the vacancies which had not been filled up in 2006 and 2008 process, merged in 2012 vacancy and as a result, no vacancies were left to be filled under 2006 and 2008 appointment process.

9. It appears, from the impugned order, that there was only one vacant post in the said Panchayat which was reserved for female against which a female candidate, Hira Kumari, was appointed in 2012 itself. From perusal of the impugned order, it transpires that the petitioner has not given any details about his application and participation in the appointment process. Number of posts, with the reservation details, receipt number of application in provisional and official merit list, position in the



counselling list, etc, were also not brought on record by the petitioner. However, the State Teachers Appellate Authority came to the conclusion that the allegation that the Panchayat Secretary was in collusion with the Mukhiya, appears to be correct.

10. Taking into consideration the totality of the fact that no vacancy was existing for appointment of the petitioner, as such, in my opinion, the State Teachers Appellate Authority has rightly held the appointment of the petitioner as illegal and allowed the appeal filed by the State.

11. Accordingly, this writ application stands dismissed.

(Anil Kumar Sinha, J)

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