

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4366 of 2018

=====

Rakesh Kumar Raushan Son of Shri Laxmeshwar Thakur, Resident of
Village- Vishal, P.O.- Sukret, P.S.- Jhanjharpur, District- Madhubani.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Department of Primary and Adult Education, Govt. of Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The District Education Officer, Madhubani.
5. The District Programme Officer, Jhanjharpur, District- Madhubani.
6. The Block Education Officer, Jhanjharpur Blok, Madhubani.
7. The Panchayat Secretary, Gram Panchayat Raj Parsa, Block- Jhanjharpur, District- Madhubani.
8. The District Teachers Appointment Appellate Authority, Madhubani.
9. The State Appellate Authority Education Department, Govt. of Bihar, Patna.
10. Praveen Kumar Singh, Son of Ganga Prasad Singh, R/o Village- Balika, P.O.- Baika Bishanpur, P.S.- Phulprash, District- Madhubani.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
For the Respondent No. 10:		Mr.Abhinay Raj, Advocate
		Mr.Gagan Deo Yadav, Advocate
		Mr.Vinod Kumar, Advocate
For the State	:	Mr. S.K. Ranjan, AC to GP-17

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 23-06-2023 Heard learned counsel for the petitioner, learned

counsel for the State and learned counsel for the Respondent

No. 10.

2. Petitioner is aggrieved by and dissatisfied with the

order dated 22.12.2017 passed by the State Appellate Authority

in Token No. Appeal/ 743/ 2017 whereby and whereunder the

appeal preferred by the petitioner for setting aside the order



dated 12.03.2013 passed by the District Teachers Employment Appellate Authority, Madhubani (hereinafter referred to as the ‘ District Appellate Authority’) in Case No. 811/08/11 which has been dismissed.

3. The present dispute pertains to the second phase of teachers employment which took place pursuant to an advertisement issued in the year 2008. The petitioner applied for the post of Panchayat Teacher in Gram Panchayat Raj Parsa as untrained teacher. On completion of the selection process, he found that one Praveen Kumar Singh (Respondent No. 10) and one Satya Narayan Sahu were appointed by the employment unit. They alleged that there had been some malpractices in the matter of selection of the Panchayat Teacher in the said Gram Panchayat.

4. The petitioner filed an appeal before the District Appellate Authority. He alleged that even as he had appeared in the counselling on 29th and 30th December, 2010 and had participated in the same, he was shown absent in counselling. He alleged that the appointment of Praveen Kumar Singh and Satya Narayan Sahu are illegal.

5. During pendency of his appeal before the District Appellate Authority one of the selected candidates namely-



Satya Narayan Sahu resigned as his certificate was found forged.

6. It further appears that by the date of filing of the appeal by this petitioner the selection process had already come to an end.

7. In the District Appellate Authority, the petitioner took a plea that he had no complaint against Praveen Kumar Singh (Respondent No. 10). This would be evident from Annexure 'A' to the counter affidavit filed on behalf of Respondent No. 10 which has not been controverted by the petitioner. Learned counsel for the petitioner does not dispute that he had received a copy of counter affidavit of Respondent No. 10 on or about 28.03.2023 but not rejoinder thereto has been filed.

8. On the basis of what was pleaded before the District Appellate Authority, the District Appellate Authority, came to a conclusion that on the date of counselling the petitioner had not appeared. Before the Appellate Authority, the petitioner claimed that he had appeared for counselling on 27.01.2009 but the District Appellate Authority found from the documents produced by the Panchayat Secretary that the counselling was not held on 27.01.2009 rather it was first held



on 28.02.2009. It was concluded that because the petitioner was not present in counselling, the Respondent No. 10 who had lesser marks had been selected. The second candidate Satya Narayan Sahu was selected because he had applied under trained category.

9. It further appears from the order of the District Appellate Authority that the petitioner took a plea before the said authority that he should be appointed in the place of Satya Narayan Sahu who had already resigned during pendency of the appeal but this plea of the petitioner was not accepted by the District Appellate Authority for the reason that he had not participated in the counselling.

10. The State Appellate Authority having gone through the materials on the record upheld the findings of the District Appellate Authority before the State Appellate Authority. The petitioner did not argue that he appeared in the counselling and signed in the counselling register. The State Appellate Authority, therefore, held that the petitioner had not claimed that he appeared for counselling . At this stage, if the pleadings made by the petitioner in the writ application is taken note of, it may be noticed from the statements in Paragraphs '16' and '17' of the writ application that, the plea of the



petitioner is that no information was given to the petitioner regarding the counselling either through registered post or telephonic message, therefore, according to the petitioner, the State appellate authority should not have rejected the claim of the petitioner only on the ground that the petitioner had not participated in the counselling.

11. Learned counsel for the petitioner has made available a certified copy of the petition of appeal filed before the District Appellate Authority which this Court has perused.

12. This Court finds that the plea of the petitioner in Paragraph '4' of his appeal petition filed before the District Appellate Authority saying that he had participated in the counselling was at first instance not supported by any evidence and subsequently in course of argument and while the matter travels up to this Court, the said statement of the petitioner has blurred and a pleading has been advanced that the petitioner was not served with notice regarding the counselling. This shifting stand of the petitioner does not inspire confidence of this Court and it stops this Court from exercising its discretion under Article 226 of the Constitution of India particularly when the petitioner has moved this Court for a Writ in the nature of Writ of Certiorari. While considering issuance of a Writ of Certiorari,



this Court is not sitting in appeal over the judgment of the State Appellate Authority and unless some perversity is found in the order the Court will refrain from interfering with the same. So far as the second ground that the petitioner may be appointed in place of Satya Narayan Sahu, this Court finds that the District Appellate Authority as well as the State Appellate Authority have rightly concluded that the second phase employment process was concluded in the year 2010 and Satya Narayan Sahu resigned in the year 2011, therefore, the claim of the appellant against the employment for that post is not correct.

13. In ultimate analysis, this Court finds no reason to interfere with the impugned orders.

14. This writ application is dismissed.

15. Let the records of the State Appellate Authority, Patna be returned.

(Rajeev Ranjan Prasad, J)

tusharika/-

U			
---	--	--	--

