

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17439 of 2022

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Chief Executive Officer Zila Parishad-cum-Additional District Magistrate-
Cum-Member Secretary-Zila Parishad, Lakhisarai, Resident of Post
Lakhisarai, P.S. and District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Government of
Bihar, Patna.
3. The District Education Officer, Lakhisarai.
4. The District Program Officer, (Establishment), Education Department,
Lakhisarai.
5. The District Teacher Appointment Appellate Authority, Lakhisarai.
6. The State Appellate Authority, Patna.
7. Uma Shankar Rajak, Son of Bijay Gopal Rajak, Resident of Mohalla-Jay
Prakash Market, Thana Chowk, P.S. - Lakhisarai, District- Lakhisarai.
8. Sunil Rajak, son of Shiv Kumar Rajak, Assistant Teacher, High School,
Nadama Halsi, P.S.- Halsi, District- Lakhisarai.
9. Abhay Paswan, son of Late Dhaneshwar Paswan, Assistant Teacher Uchch
Vidyalaya Wallipur, P.S. - Pipariya, District - Lakhisarai.
10. Gulam Ram, Son of Bansi Ram, Assistant Teacher, Uchch Vidyalaya
Ramchandrapur, P.S.- Pipariya, District - Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailesh Anand, Advocate
For the Respondent/s : Mr.Prabhakar Jha (GP-27)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 27-06-2023

1. The present writ petition has been filed
for quashing the order dated 03.11.2021 passed in
Application No. 9 of 2021 (arising out of Appeal
Case No. 98 of 2017), passed by the State
Appellate Authority, Patna whereby and
whereunder the petitioner has been impleaded as



party respondent to the said case although he was not a party in the appeal as also for directing the respondents to reconsider the judgment dated 08.02.2018 passed in Appeal No. 98 of 2017, by the State Appellate Authority, Bihar, Patna.

2. The brief facts of the case according to the learned counsel for the petitioner are that an advertisement was published for 2nd phase of appointment of Niyojit Teachers including that of the Zila Parishad Secondary School Teachers, pursuant to which respondent 2nd and 3rd set had filed their applications and after conduct of the prescribed selection process, the final merit list was prepared, however, the respondent 2nd set was not appointed. Thereafter, the respondent 2nd set filed an appeal before the District Teachers Appointment Appellate Authority vide Appeal No. 5/10-11. The District Appellate Authority, after hearing the matter on different dates, passed the final order on 19.05.2010, holding therein that the respondent 2nd set did not appear in the counselling, therefore, he was rightly not



appointed and, accordingly, the Appeal No. 5/10-11 was disposed off as dismissed. The learned counsel for the petitioner has submitted that the respondent 2nd set namely, Uma Shankar Rajak had then challenged the aforesaid order dated 19.05.2010, passed by the District Teacher's Appointment Appellate Authority, Lakhisarai, by filing an Appeal bearing Appeal No. 98/2017, before the State Appellate Authority, Patna, in which the petitioner was not arrayed as a party respondent. The State Appellate Authority, Patna had then heard the parties and disposed off the aforesaid Appeal by an order dated 08.02.2018, passed in favour of the respondent no-7 (Uma Shankar Rajak). The aforesaid order dated 08.02.2018, passed by the State Appellate Authority, Patna was further affirmed by this Hon'ble Court in CWJC 4593/2018 and L.P.A. No. 886/2019, which were preferred by the private respondents 3rd set. It is stated that the respondent no. 9, namely, Gulam Ram had then preferred a Special Leave Application vide Dairy No.-



46103/2019, however, the same has also been dismissed by an order dated 09.01.2020. It is next submitted that the respondent 2nd set, namely, Uma Shankar Rajak had then filed an application of contempt vide Application Case No-09/2021, before the State Appellate Authority, Patna in which the present petitioner was not arrayed as a party. It is also submitted that the State Appellate Authority vide order dated 03.11.2021 has been pleased to add the present petitioner as a party to the contempt proceedings. The learned counsel for the petitioner has further submitted that when the contempt application was filed by the respondent 2nd set, namely, Uma Shankar Rajak, bearing Application No. 9/2021, arising out of Appeal No. 97 of 2018, the petitioner was not arrayed as a party but on the third date of hearing i.e on 03-11-2021, the DDC, Lakhisarai-cum-CEO, Zila Parishad, Lakhisarai was added as party to the contempt proceedings for enforcement of the order dated 08.02.2018.

3. The learned counsel for the petitioner



has next submitted that the findings arrived at by the Ld. Courts below have not taken into consideration the various provisions of law, inasmuch as the petitioner has never been heard at any point of time. It is also submitted that a bare perusal of the order dated 19.05.2010, passed in Appeal Case No. 05/10-11 (Uma Shankar Rajak vs. Zila Parishad, Lakhisarai), would show that the petitioner was not arrayed as a party. It is next contended that when the matter travelled to this Court, then also, though the Member Secretary-Zila Parishad, Lakhisarai was a party respondent but neither any notice was issued nor the Member Secretary was heard. Similarly, neither the petitioner was issued notice nor was heard either by the Ld. Division Bench of this Court or by the Hon'ble Apex Court.

4. Having perused the materials on record, this Court finds that the present case has a chequered history inasmuch as originally the District Teachers Appointment Appellate Authority, Lakhisarai had passed an order dated 19.05.2010



in Appeal No. 5 of 2010-11, whereby and whereunder the appeal filed by the private respondent no. 7 herein, challenging the selection process, emanating out of an advertisement published in the year 2008 by the District Education Officer, Lakhisarai, had stood dismissed. The said order dated 19.05.2010 passed by the District Teachers Appointment Appellate Authority, Lakhisarai was challenged by the private respondent no. 7 by filing a writ petition before this Court bearing CWJC No. 12078 of 2011, however, a coordinate Bench of this Court by an order dated 08.04.2017 had disposed off the said writ petition while granting liberty to the private respondent no. 7 to file appropriate appeal before the State Appellate Authority, Patna, whereafter the private respondent no. 7 had filed an appeal bearing Appeal No. 98 of 2017, before the learned State Appellate Authority, Patna, which was allowed by an order dated 08.02.2018 and the order dated 19.05.2010 passed by the learned District Teachers Appointment Appellate Authority, Lakhisarai was



set aside as also the Zila Parishad, Secondary Teachers Employment Committee, Lakhisarai was directed to call the private respondent no. 7 for counselling. The fact remains that the merit marks of the private respondent no. 7 are higher than the merit marks of the candidates employed as Secondary Teacher (Hindi) in the reservation category of the private respondent no. 7. Thus the Ld. State Appellate Authority, Patna had also issued directions to employ the private respondent no. 7 as Secondary Teacher (Hindi), after cancelling the employment of the candidate having less merit marks in the reservation category of the private respondent no. 7. The aforesaid judgment dated 08.02.2018, passed by the learned State Appellate Authority, Patna was challenged by the private respondents no. 8 to 10 before this Court by filing a writ petition bearing CWJC No. 4593 of 2018, however, the same was dismissed by an order dated 22.07.2019, passed by a coordinate Bench of this Court, which in turn was challenged by the private respondent no. 10 by filing an appeal



bearing L.P.A. No. 886 of 2019, however, the same had also stood dismissed by a judgment dated 28.08.2019, passed by the learned Division Bench of this Court. In fact the said judgment dated 28.08.2019, passed by the learned Division Bench of this Court in L.P.A. No. 886 of 2019 was challenged by the private respondent no. 10, before the Hon'ble Apex Court by filing a Special Leave Petition bearing S.L.P. (Civil) Diary No. 46103 of 2019, however, the same has also stood dismissed by an order dated 09.01.2020.

5. This Court also finds that the petitioner herein had also filed a review petition bearing Civil Review No. 6 of 2020 before this Hon'ble Court for review of the judgment dated 22.07.2019, passed by a coordinate Bench of this Court in CWJC No. 4593 of 2018, however, the same has stood dismissed as withdrawn by an order dated 27.07.2022 passed by a coordinate Bench of this Court.

6. I have heard the learned counsel for the parties and considered the facts and



circumstances of the case, from which it is apparent that the order dated 08.02.2018 passed by the State Appellate Authority, Bihar, Patna in Appeal No. 98 of 2017, setting aside the order dated 19.05.2010, passed by the learned District Teachers Appointment Appellate Authority, Lakhisarai in Appeal No. 5 of 2010-11 has stood affirmed up to the Supreme Court with the dismissal of the Special Leave Petition filed by the private respondent no. 10, by an order dated 09.01.2020, passed by the Hon'ble Supreme Court of India, hence it does not lie within the domain of this Court to either review the judgment dated 19.05.2010 passed by the Ld. District-Teachers Appointment Appellate Authority, Lakhisarai or the judgment dated 08.02.2018, rendered by the learned State Appellate Authority, Bihar, Patna in Appeal No. 98 of 2017. Moreover, the petitioner having unsuccessfully assailed the order dated 22.07.2019, passed by a coordinate Bench of this Court in CWJC No. 4593 of 2018, upholding the order dated 08.02.2018 passed by the learned



State Appellate Authority, Bihar, Patna by filing a review petition bearing Civil Review No. 6 of 2020, which has stood dismissed as withdrawn by virtue of an order dated 27.07.2022 passed by a coordinate Bench of this Court, the order dated 08.02.2018 passed by the learned State Appellate Authority, Bihar, Patna has become binding upon the petitioner herein, hence now it is too late in the day for the petitioner to make any endeavour for re-opening the aforesaid case on the pretext of having wrongly been added as a party respondent in Application Case No. 9 of 2021, vide order dated 03.11.2021 passed by the State Appellate Authority, Bihar, Patna as also on the pretense of not being arrayed as a party in all the earlier proceedings, more so, when the State of Bihar and its authorities in the Education Department were all throughout party respondents and had opposed the case of the private respondent no. 7, tooth and nail.

7. Having regard to the facts and circumstances of the case and for the reasons



mentioned herein above, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.08.2023
Transmission Date	N/A

