

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2230 of 2020

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Rama Kant Prasad, Son of Late Prabhu Singh, resident of Village - Naro Murar, P.S. Warisaliganj, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Bihar, Patna.
2. District Education Officer, Nalanda at Biharsharif.
3. The District Programme Officer (Estb), Nalanda at Biharsharif.
4. The Block Development Officer, Parbalpur, P.S. Parbalpur, District- Nalanda.
5. The Block Education Officer, Parbalpur, P.S. Parbalpur, District Nalanda.
6. The Prakhanda Pramukh, Parbalpur cum Chairman, Block Education Employment Unit, Parbalpur, District Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Prasad Singh, Adv.
For the State : Mr. Jitendra Kumar Royl, S.C.-13

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 29-07-2024

Heard learned counsel for the petitioner and learned counsel for the State.

2. By filing the present writ application, the petitioner has prayed for issuance of an appropriate direction/directions to the respondent concern, especially to the respondent nos. 2 to 6 to comply with the order passed by the District Teacher Employment Appellate Authority, Nalanda and appoint the petitioner by implementing the order of the Appellate Authority dated 01.12.2010 and 24.12.2010 affirmed by the



State Appellate Authority and appoint him as Prakhanda Teacher.

3. Learned counsel for the petitioner submits that the petitioner had applied for 2nd phase appointment of Prakhanda Teacher (Physical Trained), but in spite of having highest marks in counselling, he was not appointed, whereas other candidates having lower marks were appointed by the appointing authority.

4. Aggrieved by the discrimination, the petitioner approached before the District Teachers Employment Authority vide Appeal No. 148 of 2010, which was allowed vide order dated 01.12.2010 directing the appointing authority to appoint the petitioner. (Annexure-1 of the writ application). Subsequently, vide order dated 24.12.2010, the order dated 01.12.2010 was modified to the extent to adjust the petitioner against the vacant post. (Annexure-2 of the writ application)

5. As the order of the appellate authority has not been implemented, the petitioner approached before this Court seeking direction to the respondents to implement the order dated 01.12.2010 and 24.12.2010 vide C.W.J.C. No. 8493 of 2011.

6. Learned counsel for the petitioner further submits that



during the pendency of the writ application i.e. C.W.J.C. No. 8493 of 2011, the State Appellate Authority came in existence and started functioning and as such the writ application of the petitioner has been disposed by this Court vide its order dated 15.12.2016 directing the petitioner to approach before the State Appellate Authority. (Annexure-3 of the writ application).

7. In compliance of the order dated 15.12.2016, the petitioner approached before the State Appellate Authority by filing appeal no. 50/2017, which has been disposed of vide order dated 29.08.2017 directing the petitioner to file an application before the District Appellate Authority for execution of its order. Accordingly, the petitioner approached before the District Appellate Authority with a prayer to execute its own order. On application of the petitioner, a case being Appeal No. 3/2017 (148/10) has been registered and notice was issued to the concerned respondent Authorities.

8. In compliance thereof, the concerned respondent Authorities appeared in Appeal No. 3/2017 (148/10) and after giving the opportunities to the parties, the District Appellate Authority vide its order dated 27.04.2018 allowed the appeal of the petitioner by directing the concerned respondent to



implement the order dated 01.12.2010 and 24.12.2010 as passed in Appeal No. 148 of 2010. (Annexure-4 of the writ application)

9. In spite of the order dated 27.04.2018, the respondents concerned did not comply with the order of the appellate authority. Subsequently, the appellate authority further vide its order dated 01.09.2018 directed the Block Development Officer (respondent no.4) to comply the order without fail otherwise action will be taken under Rule 15(4) of the State School Teachers and Employee Complain Rules, 2015 (Annexure-5 of the writ application) and further vide its order dated 12.03.2019 directed the respondent Block Development Officer to comply the order of the Appellate Authority within two months by giving last chance.

10. Despite the direction/directions issued by the District Appellate Authority, the Block Development Officer (respondent no.4) did not comply the order dated 12.03.2019, as a result, in view of the notification no. 7(B) 3-80/2011-513 dated 13.05.2015 Rule 15(4), the District Appellate Authority awarded the cost of Rs. 25,000/- to the concerned respondent i.e. the Block Development Officer directing the District Treasury Officer, Nalanda to deduct Rs. 25,000/- from the



salary of the concerned respondent.

11. It is further submitted that then B.D.O. challenged the order of the appellate authority as contained in Annexures 1 & 4 and other order passed in similar cases before the learned State Appellate Authority, Patna in appeal no. 13/2020 and 15/2020 against the fine imposed to the B.D.O., which has been disposed of vide order dated 31.08.2020 with a direction to file review application if so decide and no order for setting aside the order of imposing fine has been passed.

12. Per contra, learned counsel for the State submits that in compliance of the order dated 01.12.2020 passed in Appeal no. 03/2017 (148/2010) by the learned District Authority, the then Block Development Officer, Parwalpur (Nalanda) has deposited Rs. 25,000/- in the Treasury on 29.02.2020. (Annexure-R/H to 2nd supplementary counter affidavit)

13. Learned counsel further submits that the then Block Development Officer, Parwalpur, Nalanda filed an appeal vide no. 59 of 2021 against the order dated 22.07.2016 passed by the District Appellate Authority, Nalanda. The said appeal was disposed of on 11.04.2022 and the order imposing fine has been set aside and the case has been remanded back to the District Appellate Authority. (Annexure-R/I to 2nd



supplementary counter affidavit)

14. It is further submitted that an order was passed by the District Appellate Authority, Nalanda vide 04.10.2023 in Appeal No. 03/2017 (148/2010) by which the District Appellate Authority, Nalanda found that the order passed on 27.04.2018 and 12.03.2019 is not as per law, because the employment unit has taken a decision in proposal no. 4 on 11.09.2023 that the appointment will be done against the vacant post and complying the roster etc. and accordingly, the claim of the petitioner for appointment has been rejected, which is evident from memo no. 07 dated 04.10.2023 issued by the Presiding Officer, District Appellate Authority, Nalanda.

15. In view of the submissions advanced on behalf of the parties and after perusing the material available on record, I deem it fit to direct the petitioner to file an appeal before the State Appellate Authority to challenge the order dated 04.10.2023 passed by the Presiding Officer, District Appellate Authority, Nalanda within a period of one month from the date of receipt/production of a copy of this order. The State Appellate Authority is directed to consider the matter of the petitioner and pass a speaking and reasoned order in



accordance with law as expeditiously as possible after hearing the parties. The State Appellate Authority is also directed to condone the delay made on part of the petitioner in filing of the appeal.

16. With the aforesaid direction and observation, this writ application stands disposed of.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2024
Transmission Date	NA

