

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17907 of 2016

1. Ram Murti Rajak S/o Bishwanath Rajak
2. Chandrakala Kumari W/o Jay Shankar Mehta
3. Vijay Prasad Singh S/o Yaduvansh Singh All are residents of Vill Post - Khopi, P.S. - Jandaha, Distt - Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary-cum-Commissioner, Human Resources Development Department, State of Bihar, New Secretariat, Patna.
2. The District Magistrate, Vaishali.
3. The District Teachers Appellate Tribunal, Hajipur, Vaishali.
4. The District Education Officer, Vaishali.
5. The District Program Officer, Vaishali.
6. The Block Development Officer, Jandaha, Distt - Vaishali.
7. The Block Education Officer, Jandaha, Distt - Vaishali.
8. The Mukhiya, Panchayat Raj Khopi, Distt - Vaishali.
9. The then Secretary, Panchayat Raj Khopi, Distt - Vaishali.
10. Mr. Jagdeep Singh, the then Panchayat Secretary, Gram Panchayat Raj, Khopi, Vaishali.
11. The Then Headmaster, Middle School Khopi, P.S. Jandaha, Distt - Vaishali.
12. Mr. Shyam Shanker Prasad, The Member, Teacher's Appointment Appellate Tribunal, Vaishali.
13. Binod Kumar S/o Paramhans Rai Resident of Village Bishanpur, PO Khopi, PS Jandaha, Distt Vaishali.
14. Archna Kumari D/o Gopal Singh Resident of Village and PO - Khopi, PS Jandaha, Distt Vaishali.
15. Nikita Kumari W/o Rakesh Kumar Resident of Village and PO - Khopi, PS Jandaha, Distt Vaishali.
16. Bipin Kumar Singh S/o Baliram Singh Resident of Village and PO - Khopi, PS Jandaha, Distt Vaishali.
17. Prabha Kumari W/o Alok Kumar Resident of Village Bishanpur, PO Khopi, PS Jandaha, Distt Vaishali.
18. Om Prakash Paswan S/o Indrajeet Paswan Resident of Village Chak Abadulganj, PO Rampur Ramhar, PS Jandaha, Distt Vaishali.

... .. Respondent/s



Appearance :

For the Petitioner/s : Ms.Kumari Rashmi, Advocate
For the Respondent/s : Mr.Subhash Chandra Mishra- SC 16

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

Date : 10-05-2024

1. Heard learned counsel for the parties concerned.
2. In the present writ application, three petitioners who are claiming the post of Panchayat Shiksha Mitra, have approached this Court for quashing the order dated 26.05.2012, passed by the District Teachers Appointment Appellate Tribunal, Hajipur, Vaishali in Case no. 107 of 2010. Further, the petitioners have prayed for stoppage of salary to the private respondents, who were illegally appointed and for a direction to the respondent no. 1 to get the matter enquired under his own supervision and to terminate the illegally appointed private respondents and further to recover the amount of salary paid to them.

The petitioners are not seeking a direction for their appointment rather are seeking the cancellation of the appointment of the private respondents as Shiksha Mitras.

3. The case of the petitioners is that altogether 08 posts of Shiksha Mitras were vacant in Gram Panchayat Raj Khopi between the year 2003 to 2005 till February, 2006. The



petitioners submitted their application forms within the cut-off date and according to the petitioners, 07 applications were received at the Block Office. The private respondents were appointed by the erstwhile Mukhia by creating concocted antedated fake resolution dated 23.02.2006 and antedated appointment letter dated 23.02.2006.

4. Learned counsel for the petitioners contended that from 23.02.2006 to 30.06.2006, Model Code of Conduct was enforced and no appointment letter could have been issued during that period, hence the appointments of the private respondents were illegal as it is back door appointment and made with malafide intention. The District Teachers Appellate Authority dismissed the claim of the petitioners on the ground that the post of Shiksha Mitra has been abolished, as such, claim of the petitioners shall not be entertained. He further submits that Sukh Suvidha Committee was not properly constituted as per the 2002/ 2004 Circular, as such the entire proceeding for appointment is vitiated.

5. On the other hand, learned counsel for the State argued that from perusal of the resolution of the Sukh Suvidha Committee, as referred in the impugned order, with regard to 2006 appointment, it seems that the meeting was held on



23.02.2006. Model Code of Conduct was imposed from 25.02.2006 vide letter no. 24 Pa. Ni.-12/2006-655 and not from 23.02.2006, as contended by the petitioners. After coming into force of ***Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rule, 2006 (hereinafter referred to as “Rules 2006”)***, the post of Shiksha Mitra abolished and hence no appointment could be made as Shiksha Mitra after 01.07.2006. He also submits that the appointment of the private respondents were validly made, as per the inquiry made by the District Education Officer.

6. I have heard learned counsel for the parties. The present case relates to appointment of the private respondents on the post of Shiksha Mitra, which stood abolished on 01.07.2006. After coming into force of ***2006 Rules***, no person can claim employment/ deemed employment as Panchayat Shiksha Mitra/ Panchayat Teacher, retrospectively, as held by the Division Bench of this Court in the case of ***Smt. Renu Kumari Pandey & others v. The State of Bihar and others***, reported in ***2011 (4) PLJR 297 (DB)***. The aforesaid judgment of Division Bench has been affirmed by the Full Bench of this Court in the case of ***Kalpana Rani v. The State of Bihar and others***, reported in ***2014(2) PLJR 665***, wherein, in paragraph



no. 118, it has been held as follows :-

“118. Having thus given my anxious consideration, I am of the view that after 1.7.2006, no person, who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 1.7.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench judgment in the case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly, overruled.”

7. Admittedly, in the present case, the petitioners were not appointed as Panchayat Shiksha Mitra as on 01.07.2006. At the time of conversion of Panchayat Shiksha Mitra as Panchayat Teacher, the private respondents were converted as Panchayat Teachers. Accordingly, in view of the



law laid down by the Full Bench of this Court as well as Division Bench, no interference is required to be made by this Court and hence, the present writ application is dismissed.

(Anil Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

