

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4202 of 2023**

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Yogesh Kumar Son of Birju Ram Resident of Village and P.O.-Latta, P.S.-  
Pauthu, District-Aurangabad, State-Bihar-824122.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna,
2. The Secretary, Primary and Adult, Education Department, Bihar, Patna.
3. Director, Primary Education Department, Bihar, Patna.
4. The District Magistrate, Aurangabad.
5. The Deputy Development Commissioner Cum Chairman District Education Establish Committee, Aurangabad.
6. The District Education Officer, Aurangabad.
7. The District Program Officer, Establishment, Aurangabad.
8. The Block Development Officer Cum Member Secretary, Block Teacher Employment Unit, Rafiganj, Aurangabad.
9. The Block Education Officer Cum Member Block Teacher Employment Unit, Rafiganj, Aurangabad.
10. The Panchayat Secretary, Gram Panchayat raj, Latta, Block-Rafiganj, District-Aurangabad.
11. The Mukhiya, Gram Panchayat Raj, Latta, Block-Rafiganj, District-Aurangabad.
12. Ramkesh Prasad Son of Satyanarayan Singh Resident of Vilalge and P.O.-Latta, District-Aurangabad.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Pawan Kumar  
For the Respondent/s : Mr.Jitendra Kr. Roy 1 (Sc13)

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

- 2      25-01-2024      1. The petitioner has filed the present writ application for cancelling the appointment of the private respondent no. 12, who was appointed as Panchayat Shiksha Mitra and currently working as Block Teacher and further direction to the respondent authority to appoint the petitioner as Panchayat



Shiksha Mitra / Block Teacher.

2. The present case pertains to appointment of Panchayat Shiksha Mitra in the year 2005. The petitioner had applied for appointment on the post of Panchayat Shiksha Mitra on 28.04.2005 for which the merit list was published on 26.06.2005. According to the petitioner the name of the petitioner was not considered for appointment of Shiksha Mitra and the respondent no. 12 was appointed as Panchayat Shiksha Mitra. The petitioner filed representation before the Lokayukt regarding the irregularity done in the selection process by registered post on 30.08.2010.

3. Learned counsel for the petitioner submits that Block Development Officer, Rafiganj vide letter no. 1911 dated 26-09-2016 sought a direction from the District Education Officer, Aurangabad as to whether petitioner can be appointed after cancellation of appointment of the respondent no. 12, who was illegally appointed as Panchayat Shiksha Mitra and now serving as Block Teacher because upon enquiry it has been found that appointment unit has illegally appointed the respondent no. 12, who has secured less weightage marks i.e. 10 marks. The Panchayat Secretary, Gram Panchayat- Latta vide his memo no. "C" dated 25.02.2017 informed the District



Education Officer, Aurangabad stating therein that irregularities have been committed during the appointment process of Shiksha Mitra in the year 2005.

4. The District Magistrate, Aurangabad by his letter dated 05.12.2022 has directed the D.E.O., Aurangabad that in the light of the irregularities found in the enquiry report cancel the appointment of the respondent no. 12.

5. I have heard learned counsel for the petitioner and State. Since the post of Panchayat Shiksha Mitra stood abolished on 01.07.2006 after coming into force of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 no person can be employed, claim employment / deemed employment as Panchayat Shiksha Mitra / Panchayat Teacher retrospectively as held by a Division Bench of this Court in the judgment passed in the case of Smt. Renu Kumari Pandey & Ors. v. The State of Bihar & Ors. reported in 2011 (4) PLJR 297 (DB). The aforesaid Division Bench judgment has been affirmed by Full Bench of this Court in the case of Kalpana Rani v. The State of Bihar & Ors. reported in 2014(2) PLJR 665 (FB) whereby it has been held in paragraph no. 118 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.”

6. In the present case admittedly the petitioner was not employed as Panchayat Shiksha Mitra as on 01.07.2006 i.e. at the time of conversion of Panchayat Shiksha Mitra as Panchayat Teacher. Accordingly, the petitioner has no right to claim employment / deemed employment as Panchayat Shiksha Mitra or has right to be absorbed in service as Panchayat Teacher by operation of Rule 20(iii) of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006.

7. In the result, this writ application having no merit is dismissed.

**(Anil Kumar Sinha, J)**

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