

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6893 of 2020

1. Thakur Chandan Singh son of Sri Tarkeshwar Singh resident of Village and P.O.- Tajpur Phulwariya, Police Station- Manjhi, District- Saran.
2. Rajesh Kumar Singh son of Sri Vijay Shankar Singh resident of Village- Phulwariya, P.O.- Phulwariya Tajpur, Police Station- Manjhi, District- Saran.
3. Mukesh Kumar Singh son of Sri Sheonath Singh resident of Village and P.O.- Tajpur Phulwaria, Police Station- Manjhi, District- Saran.
4. Shekhar Suman son of Sri Ram Singh resident of Village and P.O.- Tajpur, Police Station- Manjhi, District- Saran.
5. Prabhat Kumar son of Sri Sukhdeo Singh resident of Village- Phulwaria, P.O.- Phulwariya Tajpur, Police Station- Manjhi, District- Saran.
6. Sandhya Kumari D/o Sri Aash Narain Singh resident of Village and P.O.- Tajpur Phulwaria, Police Station- Manjhi, District- Saran.
7. Md. Aslam Ali Ansari son of Haider Ali Ansari resident of Village- Alipur Matiyar, Police Station- Manjhi, District- Saran.
8. Ravindra Kumar Yadav son of Yamuna Yadav resident of Village and P.O.- Tajpur, Police Station- Manjhi, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Director, Primary Education, Department of Education, Government of Bihar, Patna.
2. The District Education Officer, Saran.
3. The District Programme Officer (Establishment), Saran.
4. The Block Education Officer, Block- Manjhi, District- Saran.
5. The Mukhiya, Gram Panchayat, Tajpur Phulwaria, P.O.- Tajpur, Police Station- Manjhi, District- Saran.
6. The Panchayat Secretary, Gram Panchayat Tajpur Phulwaria, P.O. Tajpur, Police Station- Manjhi, District- Saran.
7. Sri Ramesh Kumar son of Sri Umesh Singh resident of Village and P.O. Tajpur, Police Station- Manjhi, District- Saran.
8. Kiran Kumari D/o Sri Ramjeetan Singh resident of Village- Basadhi, P.O.- Gurkul Mehiya, District- Saran.
9. Kumkum Kumari D/o Sri Ramjeetan Singh resident of Village and P.O.- Ashok Nagar Jalapur, District- Saran.
10. Reema Kumari D/o Sri Dayanidhan Singh resident of Village and P.O.- Khalpura, District- Saran.
11. Meenakshi Kumari D/o Sri Bramheshwar Prasad Singh resident of Village- Basadhi, P.O.- Gurukul Mehiya, District- Saran.
12. Mamta Kumari D/o Sri Ramadhar Upadhaya resident of Village and P.O.-



Madansath, District- Saran.

13. Ambari Khatoon D/o Jafir Ahmed resident of Village and P.O.- Narpalia, District- Saran.
14. Preeta Kumari D/o Late Harendra Kumar Singh resident of Village- Phulwaria, P.O.- Tajpur, District- Saran.
15. Madan Mohan Das son of Sri Adalat Ram resident of Village- Gorla Chhapra, P.O.- Rivilganj, District- Saran.
16. Santosh Kumar Chaudhary son of Sri Bachcha Laal Chaudhary resident of Village- Manjhi, Bahoran Singh ke Tola, P.O.- Manjhi, District- Saran.
17. Rajesh Kumar Chaudhary son of Sri Parasnath Chaudhary resident of Village- Sirsiya Rampur, P.O.- Saran.
18. Rinku Devi D/o Rajendra Ram resident of Village and P.O.- Khanpur Chhapra, District- Saran.
19. Sanjeev Kumar Sah Gaur son of Sri Baleshwar Sah resident of Village and P.O.- Tajpur, District- Saran.
20. Chitrarekha Kumari D/o Shatrughan Thakur resident of Village and P.O.- Dumaigarh, District- Saran.
21. Rambha Pandit D/o Sri Sudama Pandit resident of Village- Bhalua, P.O.- Khanpur, District- Saran.
22. Aarti Kumari D/o Sri Shivnath Rai resident of Village and P.O.- Tajpur, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Suraj Narain Yadav, Adv.
For the Respondent/s : Mr.Madanjeet Kumar (Gp20)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 07-10-2024

Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The present writ petition has been filed for issuance of a writ in the nature of certiorari to quash the order dated 11.12.2019 passed in Appeal No.519/2018 by the State Appellate Authority by which the appeal has been rejected and also to quash the order dated 12.06.2015 passed by the Presiding



Officer, District Appellate Authority, Chapra, in case No.7, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H, 7I, 7J, 7K, 7L, 7M, 7N, 8/2013, by which appointment of petitioners and others has been cancelled with direction to issue appointment letter to the respondents no.7 to 22 and further for issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction to reinstate the petitioners to the post of Panchayat Teacher under Gram Panchayat Raj, Phulwariya, Block Majhi, District-Sharan.

3. The brief fact of the present case is that 27 posts of Panchayat Teacher were advertised for appointment in Gram Panchayat Tajpur Phulwaria under Manjhi Block in Saran District, on 25.08.2006. Out of the 27 posts, 6 posts were for unreserved (UR), 7 posts were reserved for unreserved female (URF) category, two posts each for BC, BC(F), EBC and SC(F) categories and three posts each in EBC (F) and SC categories. The petitioners were applicants for employment. Altogether, there were 1429 applicants. No separate lists of trained and untrained candidates were prepared or verification of the certificates of candidates was considered, nor provisional merit was published. According to reservation roster, category wise and 27 candidates were issued employment letter illegally on



15.12.2006. The petitioner no.1 filed objection before the concerned Authority on 09.10.2006 itself. One Rachna Kumari also filed a complaint to the Block Development Officer (BDO), Manjhi, challenging the employment made on 15.12.2006 on which, BDO, Manjhi initiated an inquiry, issued notices to the parties and called for the records.

4. After the inquiry, he submitted a report to the District Magistrate (DM), Saran vide his letter no.3417/C dated 09.10.2007, directing that the BDO, Manjhi was himself the competent authority under the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (for short, Employment Rules, 2006) to pass appropriate orders. Accordingly, BDO, Manjhi vide his memo no.932 dated 30.10.2007, cancelled the employment of all 27 employed teachers, including the employment of respondent nos.9 to 24. They were also relieved vide memo no.147 dated 01.11.2007, issued by Block Education Extension Officer (BEEO), Manjhi. The private respondents managed to obtain an order contained in memo no.1192 dated 30.06.2008, issued by District Superintendent of Education (DSE), Saran for payment of their salary, though, there was no order of any competent court/authority in this regard. DSE, Saran had no jurisdiction in



this matter.

5. Learned counsel for the petitioners placed reliance on the decision of this Court as reported in **2010(4) PLJR 24**, in this regard. One Kumari Rachna filed a writ petition bearing CWJC No.6997 of 2009, before this Court praying for a direction for her employment, on the ground that she had higher merit marks than the respondents and also for implementation of the order of cancellation of the employment of the illegally employed teachers including the private respondents. The writ application was disposed off by order dated 12.12.2011, remitting the matter to the District Authority, observing that the order passed by BDO, Manjhi was a valid order and the private respondents could not have continued in service after 01.11.2007. In pursuance of the order passed by this Court, Kumari Rachna filed an appeal before the District Authority, registered as case no.18/2012, in which notices were issued to the 27 illegally employed teachers. Appeal No.18/2012 was disposed off by order dated 24.05.2013, issued vide memo no.79 dated 21.06.2013, holding that the memo no.932 dated 30.10.2007, issued by the then BDO, Manjhi and memo no.147 dated 01.11.2007, issued by BEEO, Manjhi were still in effect.

6. Learned District Authority directed the employment unit



to make fresh employment of Panchayat Teachers, on merit. Memo No.79 dated 21.06.2013, issued by learned District Authority, was challenged before this Court vide CWJC No.13954 of 2013, which was dismissed by order passed on 26.07.2013. But the private respondents continued to work as Panchayat Teacher, whereafter, the Mukhiya and the Panchayat Secretary of the Gram Panchayat, Tajpur Phulwaria, complained before DM, Saran stating that the order dated 30.10.2007, issued by BDO, Manjhi was still not implemented.

7. In compliance of the order passed by learned District Authority, fresh advertisement was issued inviting application from candidates who had submitted applications in the year 2006. The petitioners as well as the private respondents submitted applications before the employment unit. A merit list was prepared on the basis of the applications received by the employment unit. But, the private respondents continued to work as Panchayat teacher. On the basis of fresh provisional merit list, a counselling was held on 10.08.2013 and objections were invited from 10.08.2013 to 13.08.2013. After the counselling, employment letter was issued to the petitioners on 20.08.2013 (Annexure-37 series). The respondents filed appeal nos.7, 7A to 7N and 8/2013, against the employment of the



petitioners. After hearing the parties, learned District Authority, vide its order passed on 22.06.2013, cancelled the employment of the candidates selected and employed by the Panchayat Employment Committee on 20.08.2013, including the present petitioners. In its impugned order, learned District Authority framed 4 issues and gave its finding on each issue.

8. Learned counsel for the petitioners further argued that private respondents have made allegations against petitioner no.1 Thakur Chandan Singh, who was an applicant, which is evident from the copy of the receipt filed at annexure-1 of the writ petition.

9. A counter-affidavit has been filed on behalf of the respondent nos.7 to 22, wherein, it is stated that there is no merit in the allegations levelled by the petitioners as the order passed by the concerned BDO contained in memo no.932 dated 30.10.2007 was not communicated to the then Niyojit Teachers including these private respondents, so, no question arose on their part to challenge the order of cancellation of their appointment and they were discharging their duties in their respective schools and withdrawing their salary and therefore, no occasion arises for the then Niyojit teachers to indulge in connivance with the Authorities of Education Department. It is



submitted that the order was passed behind the back of the private respondents in violation of natural justice, which was established by the District Teacher Employment Appellate Authority and also not communicated to the private respondents, and therefore, the same has no binding on the private respondents.

10. Learned counsel for the respondents submits that the Niyojan Samiti invited the applications from those candidates, who had applied in the Panchayat Teacher in 2006 with evidence i.e. their receiving receipt but due to ulterior motive and to fulfill their desire, the Niyojan Samiti also accepted the application with an affidavit to the aspect that they have lost their receiving receipts. Petitioner no. 1 Thakur Chandan Singh, is also alleged to have forged signature on his Aadhar Card, his other signatures on Annexure -12 (Appointment letter), which would be evident from the bare perusal of the same. The petitioner no. 1 has stated in the memo of appeal Case No. 519 of 2018 at para 7.14 at page-20 that his receiving receipt no.220 dated 25.08.2006 and annexure-1 to this writ petition mentioned received receipt no. 220 dated 29.08.2006 with his signature and passed Intermediate examination in the year, 2001 from Bihar Intermediate Education Council, Patna with 577 marks.



11. The Panchayat Secretary submitted his reply in Case No. 18/12 (Rachana Kumari) with the copy of several papers including merit list of 205 candidates, who had appeared in the counselling on different dates of counselling and the clear cut directions were issued that merit list for Niyojan would certainly be prepared from the candidates appeared in counselling, the names of these petitioners are not mentioned in the merit list.

12. It has wrongly been mentioned that the letter dated 07.07.2013 sent by the Panchayat Secretary by registered post was refused by the private respondents and they have no respect to the order of the learned Appellate Authority. The real fact is that the private respondents contested the Case No. 18 of 2012 and they have full knowledge of the order dated 24.05.2013 passed by the learned District Teacher Employment Appellate Authority, Saran at Chapra and they have never violated any order and have neither worked nor withdrew the salary after 24.05.2013.

13. As a matter of fact one Ramesh Kumar (Private Respondent No. 7) is in unreserved category and was having 73 merit marks and had taken part in the counselling held in the year 2006, thereafter, the Niyojan Samiti prepared the merit list in compliance of the Rule 2006 where he was placed at sl. no. 1



and the Niyojan Samiti issued Appointment letter in the year 2006.

14. It is pertinent to mention here that petitioner no. 1 Thakur Chandan Singh has two date of births which is being mentioned in the cross list as he appeared in matriculation from Bihar School Examination Board, Bihar, Patna in the year 1998 in which date of birth is 08.02.1984 in which he is fail. Subsequently, he appeared in matriculation exam in the year, 1999 from Bihar School Examination Board, where he gave different date of birth, which is 08.01.1985. The aforesaid information is evident from the cross list of year, 1998, which the private respondents no. 19 has got under Right to Information Act.

15. Considering the argument of the parties and perusal of the record, it is admitted that there is a concurrent finding in the present case that District Appellate Authority and the State Appellate Authority passed the order against the petitioners. It is also admitted fact that the petitioners as well as private respondents were applicants for employment as Panchayat Teacher in Gram Panchayat, Tajpur Phulwaria, in the first phase of employment under the Employment Rules, 2006.

16. The private respondents alleged that petitioner no.1



Thakur Chandan Singh was not an applicant at all and his antedated application was received subsequently. After the counselling and publication of merit list, employment letter was issued to the private respondents. On receipt of the complaints against the employment made by the Panchayat Employment Unit, the BDO, Manjhi cancelled the appointment of all employed teachers, as BDO, Manjhi was the competent authority under rule 18 of the Employment Rules, 2006 to hear complaint related to employment of Panchayat teachers. The said order was unsuccessfully challenged before this Court and the same attained finality. However, the private respondents continued to work as Panchayat teacher in spite of cancellation of their employment.

17. In pursuance of an order dated 12.12.2011, passed by this Court in CWJC No.6997 of 2009, one Kumari Rachna, filed appeal case no.18/2012, before the District Authority, which was disposed off by an order dated 24.05.2013, observing that the order dated 30.10.2007, passed by BDO, Manjhi was still valid and directed the Panchayat Employment Unit, Tajpur Phulwaria to make fresh employment of Panchayat Teacher. CWJC No.13954 of 2013, challenging the order dated 21.06.2013, passed by learned District Authority was also dismissed. In



compliance of the order dated 21.06.2013, passed by learned District Authority, the Panchayat Employment Unit, Tajpur Phulwaria issued an advertisement inviting the original applicants of the year 2006 to submit applications with affidavit and documentary evidence to show that they were applicants in the year 2006.

18. On the basis of the applications received, the Panchayat Employment Unit, held a fresh counselling, prepared a fresh merit list and selected and issued employment letter to the petitioners. Though, the private respondents were in the merit list, they were not selected on the plea that they had continued to receive salary in spite of cancellation of their employment. Aggrieved by their non-employment, the private respondents filed appeal case nos.7, 7A to 7N and 8/2013, before the District Authority challenging the employment of the petitioners. After hearing the parties, learned District Authority, disposed off the aforesaid appeals by the order dated 22.06.2015, cancelling the employment of the petitioners and directing the Panchayat Employment Unit to include the private respondents, who were also in the merit list and make selection and employment on the basis of merit list.

19. Learned District Authority also observed in its order dated



22.06.2015, that the Panchayat Employment Unit, Tajpur Phulwaria had wrongly deprived the private respondents of the opportunity of employment, on the wrong plea that they continued to receive their salary, even after 24.05.2013, though there was no such direction of any competent court to exclude the private respondents from the selection process. Learned District Authority has held that this action of the employment committee smacked of favouritism and was an attempt to select favourite candidates.

20. Learned District Authority has also found irregularity in the employment of Kumari Suman Singh, Neetu Singh, Pramod Kumar Gupta and Dilip Kumar Manjhi. Learned District Authority has also observed that the process of employment was completed without the supervision of District Education Officer and due to non-availability of 1429 original applications, fresh applications based on affidavit, have been invited arbitrarily. Learned District Authority has further observed and found that in the order dated 24.05.2013, passed in case no.18/2012, there was a direction to hold fresh counselling of 1429 original applicants under the supervision of District Education Officer but the Panchayat Employment Unit acted against the order and arbitrarily excluded the private respondents from the process of



employment.

21. Considering the aforesaid facts and circumstances and the detailed order passed by the District Appellate Authority and the State Appellate Authority, I do not find any merit in the present case.

22. Therefore, the present writ petition is hereby dismissed.

(Anjani Kumar Sharan, J)

pallavi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.10.2024
Transmission Date	NA

