

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6689 of 2019

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Gagan Kumar Rai S/o Sri Ram Sundar rai, R/o Village-New Colony, Ward No.9, Saharsa, P.O.-P.S.-District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal secretary, department of Human Resources, Government of Bihar, Patna
2. The Director, Primary Education, Government of Bihar, Patna
3. The Chairman, State Appellate Authority, Bihar, Patna
4. The District Magistrate, Saharsa.
5. The District Programme Officer, Est. (District Superintendent of Education), Saharsa.
6. The District Teacher Employment Appellate Authority, Saharsa.
7. Deputy Development Commissioner, Saharsa.
8. The Block development Officer, Block-Mahisi, District- Saharsa.
9. Amit Kumar Rai S/o Bindeshwari Rai, R/o Village-Telhar, P.S.-Telhar, P.s.-Mahisi, District-Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mallika Mazumdar, Adv.
For the State	:	Mr.Jitendra Kumar Roy 1, SC-13
		Mr. Bijay Bhushan Prasad, AC to SC-13
For respondent no.9	:	Mr. Pramod Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 06-05-2024

Heard learned counsels for the parties.

2. By filing the present writ application, the petitioner has prayed to quash the order dated 05.12.2018 passed by the State Appellate Authority, Sri Krishna Kumar Mandal, Chairperson whereby the Appellate Authority has summarily disposed of the matter not going into the merits of the case.

3. Learned counsel for the petitioner submits that the



petitioner was appointed as Assistant Teacher, Middle School, Telhar (under Mahisi Block) by Prakhand Niyagon Samiti on 04.04.2007 as per Rule of Primary Teacher Employment Service Condition, 2006 issued by the Commissioner and Secretary, Human Resources, Department vide memo no. 374 dated 01.07.2006. From the date of joining, he has done his duty on regular basis and no adverse mark was even made against him.

4. It is further submitted that the petitioner's Head Master was given a notice through letter No. 105 dated 06.05.2010 that the petitioner should appear on 25.05.2010 before the Appellate Authority as one Amit Kumar Rai (respondent no.9) filed appeal bearing No. 105/2008 against the petitioner's appointment.

5. It is further submitted that during the filing of appeal bearing No. 105/2008, the respondent no.9 was already in service and was posted as Assistant Teacher, Primary School, Lakhni. He has worked as Enumerator for census work under Telhar village. He has also appeared in the Indira Gandhi Open University Examination on 21.07.2012 and in the said examination, a working teacher can only sit in the examination. The name of the respondent no.9 is also mentioned in Elementary Teacher Evaluation 2010. From the above-stated facts, it is evident that respondent no.9 was already employed as Teacher in another block and he filed appeal bearing No. 105/2008 against the



petitioner's appointment to oust the petitioner from his service after a long period of his appointment.

6. It is further submitted that the matter came before the appellate authority and the Teacher Employment Appellate Authority passed an order dated 12.07.2012, which held that the appointment of the petitioner is wrong and therefore, petitioner's appointment should be cancelled and in his place, respondent no.9 should be appointed.

7. After passing of the order by the Appellate Authority, a writ has been filed in this Court as C.W.J.C. No. 21366 of 2012, which was remanded to the State Appellate Authority. The appeal was filed before the Appellate Jurisdiction Appeal No. 609 of 2018 which was summarily dismissed without going into the facts properly.

8. Learned counsel for the respondent no.9 submits that a huge bungling was committed by the Block Employee Unit, Mahisi in selection of Prakhand Teacher. Both the petitioner and the respondent no.9, namely, Amit Kumar belongs to EBC category and as the said Amit Kumar had possessed higher percentage of marks in comparison to the petitioner, hence the respondent no.9 had been placed higher in the merit list, but still appointment of the petitioner had been made, which cannot be held to be legal.



9. It is further submitted that when the respondent no.9 filed Appeal no. 105/2008, he was not in service. However, earlier he was in service, but later on he was terminated and thereafter, he filed 105/2008. It is further submitted that he joined the service on 17.09.2012 and was posted in Middle School, Telhar, Block-Mahisi, Saharsa in compliance of the order dated 12.07.2012 passed by the District Appellate Authority.

10. Learned counsel for the petitioner opposes the submission made by learned counsel for the respondent no.9 and submits that if the respondent no.9 was above the petitioner in the said merit list and yet he was not selected, he should have gone in appeal instantly, but he waited till 2009, which depicts the *mala fide* intention of the private respondent. The real fact of the matter is that when the respondent no.9 did not join the Mahisi block, the petitioner was appointed as Assistant Teacher, Middle School, Telhar (under Mahisi Block) by Prakhand Niyagon Samiti on 04.04.2007 as he was second to the respondent no.9 in the said merit list.

11. It is further submitted that the petitioner was given training and he worked for four years, but now respondent no.9 illegally wants to remove the petitioner in connivance with the respondent Authorities.

12. Considering the rival submissions of the parties as well



as the concurrent findings of the District Appellate Authority and the State Appellate Authority, I am not inclined to interfere with the order of the State Appellate Authority.

13. Accordingly, the writ application stands dismissed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2024
Transmission Date	NA

