

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17396 of 2015

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Santosh Kumar S/o Late Shobhnath Prasad Gupta R/o vill. P.O. P.S. Piro,
District - Bhojpur

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Education Department, Bihar, Patna
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The Member, Teacher Appointment Appellate Authority, Bhojpur, Ara
5. The District Education officer, District - Bhojpur
6. The District Programme officer Eastt , District - Bhojpur
7. The Block Development officer, Block - Piro, District - Bhojpur
8. The Block Education Officer, Block - Piro, District - Bhojpur
9. The Panchayat Secretary, Gram Panchayat Raj Bhadsar, Block - Piro,
District - Bhojpur
10. The Mukhiya, Gram Panchayat Raj Bhadsar, Block - Piro, District - Bhojpur
11. Md. Mujib Ansari S/o Md. Israil Ansari R/o village - Mansagar, P.S.
Charpokhari, District - Bhojpur at Present Working at Present Working as
Panchayat Teacher, Primary School, Manaini Chalka, Bharasar, Panchayat,
Block and P.S. Piro, District - Bhojpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Kumar Singh
	:	Mr. Pranab Kumar
	:	Mr. Prabhojot Singh
	:	Mr. Abhijeet
	:	Mr. Gyanendra Kumar Diwakar
For the Respondent/s	:	Mr. S.D. Yadav (Aag9)
	:	Mr. Braj Bhushan Mishra

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

11 05-08-2024 1. The present writ application has been filed for quashing the order contained in memo no. 209 dated 08.06.2015 passed in appeal no. 37 of 2014 by the District Teachers Appointment Appellate Authority, Bhojpur, Ara, whereby the appeal of the petitioner has been rejected as time barred.



2. The petitioner having required qualification applied for the post of Panchayat Teacher in the primary school Manaini Chalka, Bhojpur. According to the petitioner, he was having 59.1 marks which is higher than the marks obtained by the selected candidate/respondent no. 11. Respondent no. 11 secured 51.22 marks. However, the petitioner's name was not there in the merit list and the respondent no. 11 who secured lesser marks than the petitioner was selected by the respondents/authority.

3. Learned counsel for the petitioner next submits that after the publication of merit list in 2009, the petitioner made a complaint before the selection body on 15.01.2009 and immediately, thereafter, on 10.02.2009, filed an appeal before the District Appellate Authority which would be evident from *Annexure 2 and 3* to the writ application. Since no action was being taken by the District Appellate Authority on the complaint of the petitioner, the petitioner again filed an appeal before the District Appellate Authority which was registered as Appeal No. 37 of 2014. In the appeal filed by the petitioner, the Panchayat Secretary filed a reply in which it has categorically been stated that the private respondent was appointed on the basis of a forged experience certificate of Lok Shikshak. Notice was



issued to the private respondent no. 11 in the appeal also but despite service of notice, he chose not to appear. The appointed candidate i.e., respondent no. 11 despite service of notice by this Court also chose not to appear and did not file any vakalatnama.

4. Learned counsel for the State argued that the petitioner has alternative remedy before the State Appellate Authority.

5. I have heard learned counsel for the parties. From perusal of the materials on record, it appears that after the completion of selection, the petitioner made the complaint immediately before the selection body in 2009 and also filed a complaint before the District Appellate Authority. The District Appellate Authority did not register appeal pursuant to the complaint of the petitioner and despite lapse of many years, the District Appellate Authority failed to register the appeal. In 2014, when another appeal was filed, it was registered and has been dismissed as time barred. The Court is of the opinion that when the petitioner raised the grievance that the private respondent no. 11 was appointed on the basis of forged document, the same requires proper adjudication. Dismissal of the appeal of the petitioner on the technical ground of limitation will amount to miscarriage of justice.



6. In the circumstances, the present writ application is allowed. The order contained in memo no. 209 dated 08.06.2015 passed in appeal no. 37 of 2014 by the District Teachers Appointment Appellate Authority, Bhojpur, Ara is set aside. The appeal is remitted back to the District Appellate Authority to decide the Appeal No. 37 of 2014 on merit after giving opportunity to all concerned.

(Anil Kumar Sinha, J)

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