

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9352 of 2012

Pravin Kumar, Son of Musheb Thakur, Resident of Village-Saidpur, Police Station- Surajgarha, District-Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Teacher Employment Appellate Authority, Lakhisarai Through Its Member
3. The Secretary, Department of Human Resources, Government Of Bihar, Old Secretariate, Patna
4. The Deputy Development Commissioner D.D.C., Lakhisarai
5. The Block Development Officer B.D.O., Piparia, Lakhisarai
6. The Mukhiya, Saidpur Gram Panchayat, Police Station-Surajgarha, District-Lakhisarai
7. The Panchayat Sachiv, Saidpur Gram Panchayat, Police Station-Surajgarha, District-Lakhisarai
8. Rajniti Pandit, Son of Jagdish Pandit, Resident of Village-Chandanpura, Police Station-Surajgarha, District-Lakhisarai

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Rikesh Sinha, Advocate
	:	Ms. Pushpa Sinha, Advocate
For the Respondents	:	Mr. Mujtabaul Haque, G.P. 12
	:	Mr. Vasant Vikas, A.C. to G.P. 12
	:	Mr. Gopal Sharan Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 01-02-2024

1. Heard learned counsel for the petitioner, learned counsel for the respondent nos. 1 to 5 and learned counsel for the respondent no.8.

2. The petitioner in the instant writ application has prayed for quashing of the order dated 22.12.2011 passed in Case no.69/10-11 by the District Teachers and Employment Appellate Authority, Lakhisarai.



3. The case of the petitioner in brief is that in the year 2006 being eligible for appointment on the post of Panchayat Teacher in Saidpur Panchayat, Lakhisarai, on applications being invited, the petitioner applied for appointment against the EBC category. Merit list was prepared and the petitioner was appointed by letter no.5 dated 30.11.2006. As directed the petitioner gave his joining in the primary school at Anandpur. He started to work efficiently to the satisfaction of all concerned.

4. It is submitted by learned counsel for the petitioner that pursuant to complaint filed by the respondent no.8 which was more than 30 days after the appointment of the petitioner, a notice was issued to the petitioner to appear. The substance of the complaint was that a Ram Baran Thakur who is said to have passed the matriculation examination in the year 1980 and the petitioner Pravin Kumar who is said to have passed the matriculation examination in the year 1991 were one and the same person. Ram Baran Thakur having become over-age for appointment as a Panchayat Primary Teacher, the petitioner changed his name to Pravin Kumar and appeared in the examination and obtained his appointment.

5. Learned counsel for the petitioner submits that the



allegations are false and malicious. So far as Ram Baran Thakur is concerned, he was the elder brother of the petitioner. The said Ram Baran Thakur disappeared in the year 2002. As a result of the malicious complaint, the proceedings being Panchayat Teachers Appointment Case no. 2/7-8 was started by the Block Development Officer who finally by his order dated 15.4.2008 was pleased to set aside the appointment of the petitioner. The petitioner moved this Court in CWJC no.13887 of 2008 which was disposed of by order dated 9.9.2010 giving liberty to the petitioner to file a proper application before the appellate authority which was to be considered and decided by a speaking order. As directed the petitioner filed Appeal Case no.69/10-11 before the appellate authority which was rejected vide order dated 22.12.2011, which is impugned herein.

6. Learned counsel for the petitioner in support of his submission referring to the contents of the writ application as also the order of the appellate authority submits that it would be evident from the deposition of the statement of the headmaster of the school who appeared before the appellate authority along with the documents brought by him which included the identity cards etc. that both the petitioner and his elder brother Ram Baran Thakur were two different and distinct persons. It is thus



submitted that the appellate authority committed an error in rejecting the application filed by the petitioner.

7. The application is opposed by the learned counsel appearing for the State and also learned counsel appearing for respondent no.8. Learned counsel appearing for respondent no.8 submits that Ram Baran Thakur and the petitioner herein are one and the same person. It was to overcome the impediment of being over-age that the petitioner appeared for the second time in the matriculation examination in the year 1991 and obtained another matriculation certificate with a different date of birth. In support of his submissions learned counsel refers to the order of the appellate authority and more particularly to the statements of the Panchayat Secretary, the Circle Inspector, various sale deeds brought on record before the appellate authority as also the electoral rolls etc. to submit that both the persons are one and same. It is thus submitted that there is no merit in the instant application and the same be dismissed.

8. Having heard learned counsel for the parties and having perused the materials on record especially the detailed order of the appellate authority it transpires that the appellate authority has taken note of the various oral and documentary evidence which includes the statements of the headmaster of the



Janta High School, Alinagar, the certificates, the admit cards issued for the examinations with respect to Ram Baran Thakur in the year 1980 as also with respect to Pravin Kumar in the year 1991, the mark of identification with respect to these students, copies of the registers, certified copies of the cross-list, the sale deeds filed by the respondent no.9, the electoral roll of the year 2004, the contents of the sale deed, the statements of the Panchayat Secretary as also the Circle Inspector besides other documents. Having perused the order as also the materials on record, this Court is of the opinion that the instant application involves disputed questions of fact which cannot be effectively and properly adjudicated upon in a writ jurisdiction under Article 226 of the Constitution. The only and effective option available to the petitioner is to get such declaration, as is sought for, in a suit before a Court of competent jurisdiction.

9. In view of the facts and circumstances of the case stated hereinabove, the Court does not find merit in the writ application and the same is dismissed with the aforesaid liberty.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	02.02.2024
Transmission Date	

