

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9915 of 2019

1. Nutan Prabha Wife of Rajiv Ranjan Singh, Daughter of Late Ravindra Kumar Singh Resident of Village- Raj Packpar, Block and P.S.- Bhargama, District- Araria.
2. Amit Ranjan Son of Late Ravindra Kumar Singh @ Ravindra Prasad Singh Resident of Village- Raj Packpar, Block and P.S.- Bhargama, District- Araria, At Present resident of Bhatta Bazar, Shivpuri, P.S.- Purnea, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Director Primary Education, H.R.D. Department, Government of Bihar, Patna.
3. The Collector District- Araria.
4. The District Programme Officer Establishment District- Araria.
5. The Block Development Officer Block- Bhargama, District- Araria.
6. The Panchayat Secretary Panchayat Raj, Packpar, Block- Bhargama, District- Araria.
7. The Mukhiya Panchayat Raj, Packpar, Block- Bhargama, District- Araria.
8. Haidar Ali Son of Md. Sirajuddin Resident of Village- Raj Packpar, Block- and P.S.- Bhargama, District- Araria.
9. Md. Kaiser Son of Md. Sirajuddin Resident of Village- Raj Packpar, Block- and P.S.- Bhargama, District- Araria.
10. Akbari Jehan Khan Daughter of Md. Matin Resident of Village- Raj Packpar, Block- and P.S.- Bhargama, District- Araria.
11. Anjum Ara Daughter of Md. Shakoor Resident of Village- Raj Packpar, Block- and P.S.- Bhargama, District- Araria.
12. Nazrana Begum Daughter of Md. Jalaluddin Resident of Village- Raj Packpar, Block- and P.S.- Bhargama, District- Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv
For the State	:	Mr. Kameshwar Kumar (Gp17)
For the Respondent No.8 to 12:		Mr. Ziaul Quamar, Adv
		Mr. Manish Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 16-02-2024



Heard Mr. Sanjay Kumar, learned counsel for the petitioners, Mr. Kameshwar Kumar (GP 17) for the State as well as Mr. Md. Ziaul Quamar for the respondent nos.8 to 12.

2. Learned counsel for the petitioners submit that he does not want to seek any relief as against the petitioner no.1, namely, Nutan Prabha as she died during the pendency of writ application, as such this application become infructuous against the petitioner no.1.

3. Now, this writ application is being heard only with regard to the petitioner no.2.

4. The present writ application is being filed for the following reliefs:-

(i) For issuance of writ to quash the order dated 10.04.2019 passed in Appeal No.126 of 2019 by the State Appellate Authority, Patna whereby and whereunder the appeal No.126/2019 filed by the petitioners in terms of the order dated 31.01.2019 passed in C.W.J.C. No.6261 of 2015 has been disallowed and also to quash the order as contained in memo no.84 dated 19.03.2013 passed by the District Teacher Employment Appellate Authority, Arariya.

(ii) For issuance of writ for commanding and directing the respondent authorities to appoint the petitioners against the



post of Panchayat Teacher after hearing the case of the petitioners on merit.

(iii) For issuance of other order, direction for which the petitioners may be found legally entitled to in the facts and circumstances of the matter.

5. Learned counsel for the petitioner submits that the petitioner no.2 applied for appointment on the post of Panchayat Teacher in the year 2006. In furtherance of the selection process, 16 vacancies were shown to be vacant and roster dated 15.09.2006 was approved in which eight posts were declared for unreserved, out of eight posts, four posts were for male unreserved and four posts for unreserved female category, one for E.B.C, one for E.B.C.(f), one for S.C and two for S.C.(f), one for B.C. and one for B.C.(f) and one for R(f) category. He submits that the appointment committee in course of selection process, scrutinized the application form of the candidates including petitioner no.2 The petitioner no.2 was called for counselling and he appeared in said counselling on 17.10.2006. Petitioner no.2 has got 68.02% in intermediate examination and he was under impression that the appointment committee shall move further in accordance with the *interse* merit between the candidates but, unfortunately, petitioner no.2 was not selected and the private respondent no.8 to 12 got appointed ignoring the



merit of the petitioner.

6. Learned counsel for the petitioner further submits that the private respondent nos.8 to 12 have secured lesser marks than the petitioner no.2 and they also got appointed against unreserved post by virtue of reason that the appointment committee has not prepared the merit list on the basis of *interse* merit. The respondent nos.8 to 12 have Maulvi qualification and their respective marks in Maulvi Examination are as follows:- (i) Respondent no.8 has 58% marks, (ii) Respondent no.9 has 56.33% marks, (iii) Respondent no.10 has 63.4% marks, (iv) Respondent no.11 has 61.5% marks, (v) Respondent no.12 has 57.1% marks.

7. Learned counsel for the petitioner further submits that the petitioner no.2, after knowing the illegal act of the appointment committee, filed a representation/complaint on 07.11.2007 before respondent no.5, who was the competent authority at that point of time. In the year 2008, the State of Bihar made an amendment in the Bihar Panchayat Primary Teacher (Employment and Service Conditions) 2006 Rules, whereby the District Appellate Authority has been constituted for redressal of grievance of the candidates. Therefore, the petitioner moved before him and filed his complaint dated 15.01.2009, raising his



grievance that the Urdu qualified teachers have been wrongly appointed on the posts that were meant for general teachers. He further submits that the District Appellate Authority, after hearing the matters, fixed different dates for different Panchayats vide Memo No.140 dated 20.05.2009. He again submits that the District Appellate Authority has passed the order in absence of the petitioner and also no notice was given to the petitioner so that he could produce the relevant documents and other materials before the District Appellate Authority. He further submits that the District Appellate Authority also recorded in his order that the appointment was not in accordance with the merit of the candidates and some manipulation was committed by the Appointment Committee.

8. Learned counsel for the petitioner further submits that the petitioner no.2 belongs to the Packpar Gram Panchayat and his date of hearing of the case was fixed on 30.06.2009 and accordingly, the petitioner no.2 appeared before them and raised his grievance but no order was passed. The petitioner then moved to the High Court and filed a writ petition being C.W.J.C. No.6261 of 2015 and a Co-ordinate Bench of this Court directed the petitioner to file an appeal before the State Appellate Authority. He further submits that pursuant to the order of the



Hon'ble High court, the petitioner filed an appeal before the State Appellate Authority and the State Appellate Authority also dismissed the appeal of the petitioner holding that the District Authority issued notices to the petitioner, Amit Ranjan but he did not appear before it, therefore, the petitioner has filed the present writ application before this Hon'ble High Court.

9. Learned counsel for the petitioner further submits that the State Appellate Authority has not considered the grievance of the petitioner and without hearing him, the District Appellate Authority passed the order. The petitioner raised the submission before the State Appellate Authority to direct the District Appellate Authority, Araria (Respondent no.6 herein) to consider the objections raised by him and pass necessary orders on his complaint by a reasoned order in accordance with law. Learned counsel for the petitioner submits that the appointment of respondent nos.8 to 12 has been made in complete contravention of the Bihar Panchayat Primary Teacher (Employment and Service Conditions) 2006 Rules. The petitioner further prayed before the State Appellate Authority that the petitioner had secured higher marks than that of the private respondents but the appointment committee appointed the private respondents and not the petitioner. He further submits that the State Appellate



Authority did not consider the submissions of the petitioner and relied upon the order of the District Appellate Authority.

10. Learned counsel for the State as well as learned counsel for the private respondents opposed the submission of the petitioner by submitting that the petitioner has not filed any objection, therefore, his case was not considered by the District Appellate Authority. It is submitted by the learned counsel for the private respondents that the private respondents were appointed on the post of 5 seats which belonged to the Urdu teachers. He further submits that in the first phase of the appointment of the Gram Panchayat Teacher, there was no clarification regarding the post that it was reserved for urdu teachers but, later on, in the second phase, it was reserved. Learned counsel for the private respondents submits that it is a fact that the petitioner has higher marks than that of the private respondents but petitioner was not appointed.

11. Considering this fact that the petitioner no.2 did not get appointment on the post of Gram Panchayat Teacher, despite getting higher marks than the other appointed teachers. In such view of the matter, I set aside the order dated 15.03.2013 of the District Appellate Authority and also the order of the State Appellate Authority dated 10.04.2019.



12. In accordance with the New Rules of 2023, the R.D.D. of the concerned Division is directed to personally hear the petitioner no.2 and other affected persons and pass a reasoned and speaking order within a period of six weeks from the date of production of a copy of this order. As R.D.D. is not a respondent/party in this case but according to New Rules of 2023, the State Appellate Authority has no jurisdiction to hear the matter any more, the concerned R.D.D. will be liable for non-compliance of this order.

14. With the aforesaid observation and direction, this writ application is allowed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

