

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.465 of 2024
In
Civil Writ Jurisdiction Case No.3912 of 2019

Vimal Kumar, son of Braj Bhushan Sharma, Resident of village- Dadpur, PO-
Bauri Belwari, PS- Hulasganj, District- Jehanabad.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Collector, Jehanabad.
5. The District Programme Officer (Establishment). Jehanabad, Bihar.
6. The District Education Officer, Jehanabad, Bihar.
7. The Block Education Extension Officer, Hulasganj, Jehanabad.
8. The Mukhiya, Gram Panchayat-Khudauri, Prakhand-Hulasganj, District-
Jehanabad.
9. Sri. Randhir Kumar, Son of Shyam Deo Thakur, Resident of Village-
Sukiyawan, P.O-Narma, P.S-Hulasganj, District-Jehanabad.
10. Smt. Sangita Kumari, Wife of Ram Niwas Sharma, Resident of Village-
Sherthua, P.O-Gibing, P.S-Ghoshi, District-Jehanabad.
11. Smt. Baby Kumari, wife of Swami Vivekanand, Resident of Village-
Golakpur, P.O-Bhagwanpur, P.S-Hulasganj, District-Jehanabad.
12. Smt. Lalmuni Kumari, wife of Bhubneshwar Paswan, Resident of Village-
Raghunathpur Tola, P.O and P.S-Hulasganj, District-Jehanabad.
13. Smt. Mamta Kumari, wife of Braj Kumar, Resident of Village- Sultanpur,
P.S-Bhagwanpur, P.O-Hulasganj, District-Jehanabad.
14. Smt. Seema Kumari, wife of Deo Prasad, Resident of Village-Narma, P.O-
Narma, P.S-Hulasganj, District-Jehanabad.
15. The Panchayat Secretary, Khudauri Gram Panchayat, Hulasganj, District-
Jehanabad.
16. Sanjeev Kumar, Son of Kameshwar Prasad Singh, Resident of Village-
Bishnupur, P.S-Hulasganj, District-Jehanabad.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms.Ritika Rani, Advocate Mr. Vardaan Manglam, Advocate Mr. Himja Gautam Singh, Advocate Ms. Rupali, Advocate
For the Respondent/s	:	Mr.Additional Advocate General 13



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 14-05-2024

The controversy in the above appeal revolves around who is entitled to be appointed to the post of Panchayat Teacher in the Gram Panchayat Khudauri under Block- Hulasganj, District- Jehanabad. The rival claimants are the appellant herein and the 16th Respondent; who will be referred to by their names along with the names of other relevant candidates.

2. Admittedly, Khudauri Gram Panchayat had vacancies wherein appointments were to be made in the roster points 35, 39 and 43 for unreserved category and 37, 41 and 45 for unreserved female category; the later of which is a horizontal reservation. We are concerned with the appointments made to roster points 39 and 45.

3. One Rita Kumari was appointed to the roster point 45 from which she resigned on 11.07.2007. The said vacancy was filled up with Sanjeev Kumar, the 16th Respondent. One Krishna Kumari was appointed against roster point 39, whose services were dispensed with on 25.10.2007, to which post the appellant, Vimal Kumar, was appointed. Admitted is also the fact that Sanjeev Kumar was more meritorious than Vimal



Kumar since he had secured a total marks of 72.59 marks as against Vimal Kumar, securing 70.58 marks.

4. It was while Sanjeev Kumar was continued in roster point 45, which vacancy arose on resignation of Rita Kumari that Krishna Kumari's services were dispensed with, who was appointed against roster point 39. Applications were called for and Vimal Kumar applied along with others. Sanjeev Kumar obviously did not apply since he was already appointed. Vimal Kumar was appointed in the vacancy at roster point 39.

5. Long afterwards, in 2009, one Mamta Kumari approached the District Teachers Employment Appellate Authority against the appointment of Vimal Kumar challenging the very appointment of Krishna Kumari. The District Teachers Employment Appellate Authority found the appointment of Vimal Kumar was just and proper. On 10.11.2009, the Block Education Officer, Hulasganj held the appointment of Sanjeev Kumar to be invalid; presumably because he was appointed in an unreserved female category roster point.

6. Sanjeev Kumar approached this Court and he was relegated to the District Appellate Authority who held against him. A further writ petition filed before this Court also relegated him to the State Appellate Authority; who held in his favour.



The learned Single Judge also upheld the order of the State Appellate Authority.

7. As we notice; between Sanjeev Kumar and Vimal Kumar; the former was more meritorious. When Krishna Kumari's service in the unreserved category was dispensed with; if Sanjeev Kumar had not been earlier appointed to the vacancy at roster point 45 unreserved female category, he would definitely have been appointed to roster point 39. Only because of an appointment made of Sanjeev Kumar to a wrong roster point; which was invalid at its very inception, he cannot be denied of the rightful claim he had against the unreserved category roster point, which was available to him, based on his merit. Only because of the illegal appointment of Sanjeev Kumar to roster point 45, he did not make an application, for the vacancy which arose in the roster point 35.

8. Considering the totality of the circumstances, we are of the opinion that merit should not be compromised, especially in the appointment of teachers and Sanjeev Kumar, as held by the State Appellate Authority and the learned Single Judge, is competent to be appointed to the roster point 39; on the services of the earlier appointee having been dispensed with.

9. We find absolutely no reason to interfere with the



judgment of the learned Single Judge and dismiss the appeal *in limine*.

10. Interlocutory application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	15.05.2024
Transmission Date	

