

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4923 of 2021

-
-
1. Rajesh Kumar Mahto S/o Shri Banarasi Mahto, R/o Vill. - Panchharwa, P.S. Mejarganj, District - Sitamarhi.
 2. Ram Vinod Singh, S/o Sri Mahendra Singh, R/o Vill. - Panchharwa, P.S. Mejarganj, District - Sitamarhi.
 3. Amrendra Kumar, S/o Sri Deo Narayan Mahto, R/o Vill. - Panchharwa, P.S. Mejarganj, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The State Appellate Authority, Niyojan Bhawan, Bailey Road, Patna.
4. The District Teachers Appointment Appellate Authority, Sitamarhi.
5. The District Magistrate, Sitamarhi.
6. The District Education Officer, Sitamarhi.
7. The District Programme Officer, (Estt.), Sitamarhi.
8. The Block Development Officer, Block - Mejarganj, District - Sitamarhi.
9. The Block Education Officer, Block - Mejarganj, District - Sitamarhi.
10. The Mukhiya Gram Panchayat Raj, Panchharwa, P.S. - Mejarganj, District - Sitamarhi.
11. The Panchayat Secretary, Gram Panchayat Raj Panchharwa, P.S. - Mejarganj, District - Sitamarhi.
12. Umesh Kumar Pandey, S/o Ramchandra Pandey, R/o Vill. - Marpa Sripal, P.S. - Mejarganj, District - Sitamarhi.
13. Ranjit Kumar Patel, S/o Shivjee Prasad, R/o Vill.- Hanuman Nagar, P.S. - Mejarganj, District - Sitamarhi.
14. Upendra Singh, S/o Late Ganga Singh, R/o Vill.- Gadhwa Bishanpur, P.S. - Mejarganj, District - Sitamarhi.
15. Arun Kumar, S/o Lal Rai, R/o Vill - Pachharwa, P.S. - Mejarganj, District - Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Adv.
For the Respondent/s : Mrs. Abhanjalli, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 27-08-2024

Heard learned counsel for the petitioners, learned



counsel for the State and learned counsel for the respondents.

2. The present writ petition has been filed seeking the following reliefs:

(i) To quash the order contained in memo no- 1450 dated 15.11.2006 issued by the District Magistrate Sitamarhi (Respondent No-5) whereby and where under appointment/employment of petitioners, who were appointed as Siksha Mitra and subsequently observed as Panchayat Teacher, has been set aside.

(ii) To quash the order dated 05.05.2012, passed by the District Teacher Employment Appellate Authority, Sitamarhi (Respondent No-4) in Appeal No- 129/2011 whereby and where under the appeal preferred by the petitioner along with others, filed in view of order dated 11.07.2011 passed in C.W.J.C. No- 4422/2007 by this Hon'ble Court has been dismissed.

(iii) To quash the order dated 10.06.2019 passed in Appeal No- 170/2018 by the State Appellate Authority, Patna (Respondent No-3) whereby and where under the appeal preferred by the petitioners against order dated 15.11.2006 (Annexure-1) and order dated 05.05.2012 (Annexure-2) has also been dismissed.

(iv) To direct the respondents to reinstate the petitioners on the post of Panchayat Teacher with all consequential and monitory benefits.

And for any such order(s) as Your Lordships may deem fit and proper in the present facts and circumstances of this case."

3. The short facts of the present case is that the petitioners were employed as Panchayat Shiksha Mitra (hereinafter referred as 'PSM') in the year 2003 on the recommendation of Sukh Suvidha Samiti of Panchharwa Gram Panchayat under Mejarganj Block in Sitamarhi District. The private respondent no.12, Umesh Kumar Pandey, filed a writ petition bearing C.W.J.C. No.13698 of 2004 before this Court challenging the employment of PSMs in Panchharwa Gram Panchayat and praying for his own employment as PSM. The above-said writ application was disposed off by order passed on



22.03.2006 directing the respondent no.12 to represent his case before the Collector of the district, which would be considered and disposed off in accordance with law, by a speaking order, within a period of six weeks from the date of its filing. In pursuance of the order of this Court, respondent no.12 filed a representation before Collector, Sitamarhi on which, Collector, Sitamarhi passed an order vide memo no.14 dated 15.11.2006, cancelling the employment of all PSMs except one Pramod Kumar who was employed in SC category. Aggrieved by the order of Collector, Sitamarhi, the petitioners filed a writ petition bearing CWJC No.4422 of 2007 before this Court, which was heard along with analogous writ applications and disposed off by a common order passed on 11.07.2011, giving liberty to the petitioners to approach the District Authority, in pursuance of which the petitioners filed Case No.129 of the 2011 before the District Authority which was disposed off by an order passed on 05.05.2012 and the appeal of the petitioners was dismissed.

4. Learned counsel for the petitioners further submits that the Collector, Sitamarhi cancelled the employment of the petitioners without giving any notice to them, which was in violation of the principle of natural justice. Learned District Authority has not considered their plea in this regard. Learned District Authority has also not enquired whether the reservation



roster was followed or not in employing the petitioners.

5. Learned counsel for the petitioners further submits that the petitioners have challenged the impugned order on the ground that they were not impleaded as parties in C.W.J.C. No. 13698 of 2004 before this Court or before Collector, Sitamarhi and their employment was cancelled without hearing them and without issuing any show cause notice to them. He further submits the private respondents have never appeared in the counselling, the petitioners were employed in compliance of the reservation roster and the private respondents, namely, Upendra Singh, Arun Kumar and Ranjit Kumar Patel appeared before the District Programme Officer, Sitamarhi and made statement that at the relevant time they were not interested for the post of PSM.

6. Learned counsel for the petitioners further submits that the petitioners have filed an appeal before the State Appellate Authority i.e. Appeal No. 170 of 2018, in pursuance of the order dated 07.11.2017 passed by this Court in C.W.J.C. No. 16411 of 2012, challenging the order dated 05.05.2012 passed by the District Teacher Employment Appellate Authority, Sitamarhi in Case No. 129/2011 and order dated 15.11.2006 passed by the District Magistrate, Sitamarhi. In the aforesaid Appeal No. 170 of 2018, notices were issued to the private



respondents, but only the respondent no. 12, Umesh Kumar, Pandey appeared and filed counter affidavit. Other private respondents did not appear in spite of notices served on them by speed post. He further submits that the State Appellate Authority has dismissed the appeal of the petitioners on the ground that the appointing authority of the Panchayat has not considered the recommendation of the District Superintendent of Education, Sitamarhi for the engagement of the post of Panchayat Shiksha Mitra. He further submits that the action of the respondents is also violation of Articles 14, 16 and 21 of the Constitution of India and violation of principle justice.

7. Learned counsel for the petitioners further submits that the District Appellate Authority dismissed the appeal of the petitioner on the ground that there is no compliance of the roster and there is also violation of the Government rules/guidelines for the appointment of Panchayat Shiksha Mitra.

8. Learned counsel for the petitioners lastly relied upon the judgment of a Co-ordinate Bench of this Court passed in the case of ***Rajni Bara vs. the State of Bihar and Ors.*** reported in ***2011 (4) PLJR 846***, paragraph 5 of which is reproduced hereinbelow:

“5. The counter affidavit and the supplementary counter affidavit filed by the respondents do not allege that the petitioner did not hold the requisite qualification for being appointed as a



Shiksha Mitra and/or a Panchayat Teacher. There is no explanation in the two counter affidavits that if reservation roster was not followed on 07.02.2006 why the matter was not enquired into within reasonable time if not within 30 days. Rule 11 of the Appointment Rules visualizes examination of documents. The power for scrutinizing the appointment of the petitioner under Rule 20 of the Appointment Rules was again available to the respondents. There shall be a presumption that they found no irregularity in the same. In any event the operation of the reservation roster was the responsibility of the respondents and not of the petitioner. If the reservation roster has been violated the petitioner cannot be visited with the consequence simplicitor unless those who violated the reservation roster are first made answerable. There is no allegation in the order of the Tribunal of the petitioner having manipulated and knowingly obtained a wrong appointment contrary to the roster.”

9. A counter affidavit has been filed on behalf of the State in which it is stated that when the Sukh Suvidha Samiti of the Gram Panchayat recommended the names of candidates for employment as PSM, District Superintendent of Education (DSE), Sitamarhi, vide his letter no.3150 dated 06.08.2003, examined the proposal for employment of PSM received from the Gram Panchayat with the comments of BDO, Mejarganj and held that the employment of the private respondents and one Pramod Kumar will be in accordance with rules. Accordingly, DSE, Sitamarhi directed the Gram Panchayat to make employment of PSMs, with a direction that if the employment



was not made according to his letter, the Government will not be liable to pay the grant for payment of honorarium. But the Panchayat Employment Unit did not comply with the direction contained in letter dated 06.08.2003 issued by DSE, Sitamarhi and employed the petitioners in violation of the guidelines. When the respondent no.12 filed a complaint in pursuance of an order passed by this Court, Collector Sitamarhi also found that the employment of the petitioners was not valid and cancelled their employment.

10. Considering the arguments of the parties and perusal of records, the State Appellate Authority has mentioned in its order that the Sukh Suvidha Samiti of the Gram Panchayat Panchharwa recommended the names of petitioners and one Pramod Kumar for employment as PSM. The proposal was forwarded by B.D.O. to the D.S.E., Sitamathi with his comments. D.S.E, Sitamarhi, examined the proposal and found that the recommendation of the Gram Panchayat was not in order and recommended the employment of the private respondents and one Pramod Kumar. But the concerned authorities of Panchharwa Gram Panchayat did not comply with the direction given by D.S.E., Sitamarhi and employed the petitioners and one Pramod Kumar as per its earlier recommendation. The State Appellate Authority further held that



the District Appellate Authority has rightly found that the Sukh Suvidha Samiti of Panchharwa Gram Panchayat had selected and employed the petitioners in disregard of guidelines and letter of D.S.E., Sitamarhi.

11. Further, learned counsel for the petitioners relied upon the judgment of Co-ordinate Bench of this Court passed in ***Rajni Bara*** (*supra*). In the said case the petitioner was appointed as a Shiksha Mitra on 07.02.2006. There is a time limit for filing of complaints, by aggrieved against such appointment, was 30 days. No such complaint was filed. The complaint in question in the said case was filed much belatedly on 20.8.2009 by the new incumbent Mukhiya before the Appellate Tribunal. The case in hand is not on similar footing because earlier the Panchayt Samiti has not complied the order of the D.S.E., Sitamarhi, vide his letter no. 3150 dated 06.08.2003, and appointed the petitioners and other persons. Aggrieved by the employment of the petitioners, the private respondent no.12 filed a writ petition before this Court bearing C.W.J.C. No.13698 of 2004 and the said writ petition was disposed of vide order dated 22.03.2006 with a direction to the private respondent to file a representation before Collector, Sitamarhi. In pursuance of which, respondent no.12 filed a representation to Collector, Sitamarhi, who examined the matter



and found that the petitioners were employed in violation of the guidelines issued by the Government and the direction given by DSE, Sitamarhi. Accordingly, Collector, Sitamarhi cancelled the employment of the petitioners except one Pramod Kumar.

12. Considering the facts and circumstances of the case, this Court do not find any illegality or infirmity in the order passed by the State Appellate Authority as well as the District Appellate Authority. The employment of the petitioners was cancelled in the year 2006 and order of collector, Sitamarhi is still valid and has not been stayed or quashed by the order of any competent authority.

13. Accordingly, the present writ application is dismissed.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	13.08.2024
Uploading Date	27.08.2024
Transmission Date	NA

