

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.388 of 2022

In

Civil Writ Jurisdiction Case No.8542 of 2022

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Krishna Kumar Son of Late Sitaram Singh, Resident of Village-Kapurdi-hara,
P.S.-Tarari, District- Bhojpur.

... .. Appellant

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director (Primary Education) Education Department, Govt. of Bihar, Patna.
3. The District Collector Bhojpur (Ara).
4. The District Education Officer, Bhojpur (Ara).
5. The District Programme Officer (Establishment), Bhojpur (Ara).
6. The Block Development Officer, Tarari, District-Bhojpur (Ara).
7. The Block Education Officer, Tarari, Bhojpur.
8. The Panchayat Secretary, Gram Panchayat, Bhakura, Block-Tarari, District-Bhojpur.
9. The Mukhiya Gram Panchayat, Bhakura, Block-Tarari, District-Bhojpur.
10. Raj Ranjan Rajesh son of Shatrughan Prasad Singh, resident of Village-Har-nathdih, P.S.-Tarari, District-Bhojpur.
11. Arun Kumar Singh son of Sitaram Singh, resident of Village-West English, P.S.-Imadpur, District-Bhojpur.
12. Kripa Shankar son of Sri Rajendra Prasad Rai, resident of Village-Sorfora, P.S.-Tarari, District-Bhojpur.
13. Khushbu Kumari, daughter of Sri Shgam Bihari Paswan, resident of Village-Dhamana, P.S.-Tarari, District-Bhojpur.

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Ashwani Kumar Tiwary, Advocate
For the Respondents	:	Smt. Shilpa Singh, GA-12
		Mr. Ram Vinay Pd. Singh, AC to GA-12
		Mr. Apurva Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

C.A.V JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)



Date : 04-10-2024

Heard learned counsel for the appellant and learned counsel for the respondents.

2. The appellant has preferred this appeal against the order dated 29.6.2022 whereby the learned Single Judge was pleased to dismiss CWJC no. 8542 of 2022.

3. As per the case of the appellant, pursuant to the respondents having invited applications for appointment on the post of Panchayat Teachers in Gram Panchayat, Bhakura, Block-Tarari in the District of Bhojpur, the appellant being eligible made his application and was granted receipt dated 17.11.2008. The appellant along with others were called for counselling where he appeared and appointment letter dated 13.8.2010 was issued. However, on the appellant going to give his joining at Primary School, Harnathdih, it is the appellant's case that the Headmaster did not accept his joining and stated that other teachers had already joined on the direction of the Panchayat Secretary and the *Mukhiya* of the Gram Panchayat. The appellant filed an appeal before the Appellate Tribunal and on no action being taken by the Tribunal, moved this Court in CWJC no. 9954 of 2012, which was disposed of in view of the fact that the appellant had an alternative statutory remedy of



moving before the Tribunal.

4. The appellant, thereafter, filed an appeal before the Appellate Authority, Bhojpur, which was registered as Appeal no. 93(A) of 2012, which was dismissed by the Presiding Officer, District Appellate Authority, Bhojpur by order dated 15.6.2015. Appeal was preferred by the appellant against the said order before the State Appellate Authority, which was registered as Appeal no. 589 of 2017 and the same was disallowed by order dated 28.8.2019. The appellant challenged the said order in a writ application (CWJC no.8542 of 2022) which was dismissed by the learned Single Judge by his order dated 29.6.2022 and it is against this order that the instant appeal has been preferred.

5. Learned counsel for the appellant submitted that the District Appellate Authority, the State Appellate Authority as also the learned Single Judge erred in not taking into consideration the fact that there was evidence available on record about the appellant having participated in the selection process. It was incorrect to state that there were disputed questions of fact and as such the order impugned be set aside and the appeal be allowed.

6. Learned counsel for the respondents opposed the



appeal. It was submitted that it was more than two years after the letters of appointment were issued and other candidates had already joined in the school that the appellant moved this Court in CWJC no. 9954 of 2012. The claim of the appellant had already been rejected by the District and State Appellate Authorities by orders dated 15.6.2015 and 28.8.2019 respectively. The appellant thereafter moved this Court in CWJC no. 5158 of 2016, which was disposed of giving liberty to the appellant to move before the State Appellate Authority. On the appellant moving before the State Appellate Authority vide Appeal no. 589 of 2017, the same was disallowed by order dated 28.8.2019. Even the writ application preferred by the appellant was dismissed by the learned Single Judge by his order dated 29.6.2022. There is no merit in the instant appeal and as such the same be dismissed.

7. Having heard learned counsel for the parties and having perused the material on record, the facts relevant for the instant application are that in the process for selection and appointment of Panchayat Teachers in Gram Panchayat, Bhakura, the appellant along with others filed their applications. While the case of the appellant is of having participated in counselling and that he was issued a letter of appointment on



13.8.2010, however on going to Primary School, Harnathdih to give his joining, his joining was not accepted.

8. On the other hand, this Court finds that so far as the original records with respect to the appointment is concerned, it is the case of the respondents that the same was lost in the year 2011 and accordingly a report was made by the Panchayat Secretary on 1.12.2011 addressed to the Officer In-charge, Tarari, Bhojpur to the effect that the records have been lost on 30.11.2011. Accordingly a *sanha* (DE no/009/11) was entered in the police station on 1.12.2011. It was the case of the Panchayat Secretary that the appellant never participated in the process of employment whereas the respondent nos. 10 to 13 appeared for counselling and were given letters of appointment on 13.8.2010 and 14.8.2010 as a result of which they joined their respective schools where they were posted. It further transpires that while the matter was being heard by the District Appellate Authority, the applicants produced four appointment letters, all bearing letter no. 01 dated 13.8.2010. On the other hand, appointment letters produced by the private respondents had different memo numbers. The appellant had no explanation as to how the appointment letters could all bear the same letter number. On the other hand, it was the case of the respondents that the



documents produced by the appellant had been interpolated and were forged. It was their case that the appellant had not participated in the selection process. The question with respect to genuineness of the letters or otherwise could not be established in the writ Court under Article 226 of the Constitution of India.

9. In view of the facts stated above, it is evident that disputed questions of fact arose and taking into consideration the facts of the case including the original records having gone missing and for which a report had already been submitted at the police station, the District Appellate Authority was rightly of the opinion that in the circumstances of the case the photocopies of the documents produced by the appellant could not be relied upon. As such it dismissed the appellant's application and the order was upheld by the State Appellate Authority.

10. Taking into consideration the finding on facts of the District and State Appellate Authority, the learned Single Judge was rightly of the opinion that disputed questions of fact cannot be examined by this Court under the writ jurisdiction and as such dismissed the writ application.

11. In view of the facts and circumstances of the case, the Court finds no illegality in the order of the learned Single



Judge nor any merit in the instant appeal.

12. The appeal is dismissed.

(Partha Sarthy, J)

K. Vinod Chandran, CJ: I agree.

(K. Vinod Chandran, CJ)

Shiv/-

AFR/NAFR	
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