

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.706 of 2021

In
Civil Writ Jurisdiction Case No.8123 of 2020

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1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
 2. The Director Primary Education, Government of Bihar, Patna.
 3. The District Education Officer, Araria.
 4. The District Programme Officer (Establishment), Araria.
 5. The Block Development Officer Member Secretary Block Teachers Employment Committee, Araria, District - Araria.
 6. The Block Education Officer, Araria Sadar, District - Araria.
 7. The Block Education Extension Officer, Block Araria, District - Araria.
 8. The Pramukh Araria, District - Araria.
 9. The Up-Pramukh, Araria, District - Araria.
 10. The Member of Shiksha Committee Block Teacher Employment Committee, Araria.

... .. Appellant/s

Versus

1. Md. Quamer Alam, Son of Md. Salimuddin Resident of Village Manikpur, Post Office Araria Basti, Police Station Bairgachi, District - Araria.
2. Md. Tarique Jawed, Son of Md. Shamsuzzaman Resident of Village Satbita, Post Office Araria Bairgachi, Police Station Bairgachi, District - Araria.
3. Shawal Ahmad alias Shawwal Ahmad, Son of Riyazuddin Resident of Village Belwa Ghat Tola, Post Office Gaiyari, Police Station- Araria, District - Araria.
4. Md. Azad Hussain, Son of Md. Fakhruddin, Resident of Village Manikpur Tola, Post Office Araria Basti, Police Station Bairgachi, District - Araria.
5. Md. Ghufraan Alam, Son of Md. Salimuddin, Resident of Village - Belwa, Post Office Gaiyari, Police Station Araria, District - Araria.
6. Md. Afroz Alam Son of Md. Muslim, Resident of Village Manikpur, Post office Araria Basti, Police Station Bairgachi, District - Araria.
7. Md. Maqutur Alam, Son of Md. Quasim Reza Resident of Jagindra, Post Office Ghairki, Police Station Mahalgaon, District - Araria.
8. Md. Umar Shakir, Son of Md. Salimuddin Resident of Belwa, Post Office Ghairyari, Police Station Araria, District - Araria.
9. Md. Rehan Alam, Son of Md. Salimuddin Resident of Belwa, Post Office Ghairyari, Police Station Araria, District - Araria.
10. Gulshan Ara, Daughter of Md. Ashraf Ali, Resident of Village Belwa, Post Office Ghairyari, Police Station Araria, District - Araria.
11. Bibi Mariam, Daughter of Haji Maqbool Resident of Village Belwa, Post



Office Ghairyari, Police Station Araria, District- Araria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mrigendra Kumar (A.C. to G.P. 20)
For the Respondent/s : Mr. Darain Syed Alam, Advocate
Mr. Syed Firoz Raza, Advocate
Mr. Azhar Hussain, Advocate

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

Date : 04-03-2024

The present Letters Patent Appeal has been filed under Clause-X of Patna High Court Rules against the order dated 05.07.2021, passed by the learned Single Judge of this Court in C.W.J.C. No. 8123 of 2020, whereby the learned Single Judge has allowed the petition filed by the original petitioners/ present respondents.

2. Heard Mr. Mrigendra Kumar, learned A.C. to G.P.- 20 appearing for the appellants and learned counsel appearing for the present respondents/ original petitioners.

3. The factual matrix of the present appeal is as under:-

3.1. An advertisement was published in the year 2008 for filling up the vacancies on the post of Block Teacher, Arraria. The original petitioners submitted applications pursuant to the said advertisement. The petitioners participated in the said



selection process. Thereafter, merit list was prepared on 30.12.2008 in which names of the original petitioners figured as successful candidates. Similarly situated persons were given appointment, whereas the appointment of the petitioners was getting delayed.

3.2. Petitioners, therefore, approached the District Appellate Authority in the year 2011. The said appeal was not being taken up for hearing, the original petitioners filed petition being C.W.J.C. No. 945 of 2016 before this Court. This Court disposed of the said petition by directing the concerned appellate authority to dispose of the appeals relating to non-appointment of the candidates despite they having been declared successful. Pursuant to the said direction issued by this Court, the appellate authority passed an order dated 15.07.2019 by which direction was issued to the appointing authority to give an appointment to the original petitioners as they have already been selected by the Selection Committee. Despite the aforesaid direction issued by the appellate authority, the concerned original respondents/ present appellants issued notice dated 06.06.2020, whereby the appointment of the petitioners has been cancelled. The original petitioners, therefore, preferred C.W.J.C. No. 8123 of 2020 before this Court. The learned



Single Judge by impugned order dated 05.07.2021 allowed the said petition and thereby quashed and set aside the notice dated 06.06.2020 issued by the concerned original respondents and the consequential Letter No. 705 dated 02.06.2020 issued by the concerned original respondents/ present appellants. The learned Single Judge further observed that the petitioners shall accordingly be treated to have been validly appointed against the posts which are vacant as on date and they shall also be entitled to receive emoluments which must be paid to them without any further loss on time. The learned Single Judge further observed that, however, it will be open for the original respondents to verify the genuineness of the documents/ certificates submitted by the petitioners for their appointment. The learned Single Judge also imposed cost of Rs. 10,000/- which is to be paid by Respondent No. 4 to each of the petitioners within stipulated time. The original respondents, therefore, preferred the present appeal.

4. Learned counsel appearing for the appellants would mainly submit that the selection process was initiated in the year 2008, however, the petitioners were not appointed due to non-verification of the certificates/ documents submitted by the petitioners. It is further submitted that the candidates whose



documents/ certificates got verified by the concerned respondent/authority, were given appointment. It is further submitted that, in the meantime, new rules of 2012 were introduced and the petitioners are not eligible as per the said new rules. It is further submitted that the appellate authority did not consider the aforesaid relevant aspects and, therefore, though the direction was issued by the appellate authority, the concerned respondent issued notice dated 06.06.2020, pursuant to the communication dated 02.06.2020 issued by the concerned authority, thereby no illegality was committed by the concerned respondent/authority. However, the learned Single Judge has not properly appreciated the aforesaid important aspects of the matter and, therefore, the impugned order is required to be quashed and set aside. It is further submitted that the learned Single Judge also imposed cost of Rs. 10,000/-, which is to be paid by the original Respondent No. 4 to each of the petitioners and the said cost part may also be set aside.

5. On the other hand, learned counsel appearing for the present respondents/ original petitioners has vehemently opposed the present appeal. Learned counsel for the original writ petitioners contended that no error has been committed by the learned Single Judge while passing the impugned order.



Learned counsel would submit that the petitioners were admittedly declared successful for their appointment as Block Teachers in the year 2008 itself. It is not the case of the original respondents that the certificates which were submitted by the petitioners were not genuine. In fact, the petitioners had no role to play in getting the certificates verified from the concerned Board/ University/ Institution, in the scheme of the process of selection for appointment. Learned counsel further submits that for the delay on the part of the Boards/ University or for that matter, the original respondents in obtaining the verification report regarding genuineness of the certificates of the petitioners within time frame, original petitioners cannot be blamed. It is also pointed out from the records that the other similarly situated candidates whose verification report has been received by the concerned respondent/authority have been appointed, however, the appointment to the petitioners have been denied and therefore, learned Single Judge has not committed any error while passing the impugned order. It is also submitted that the present appellants/ original respondents have not challenged the order passed by the concerned appellate authority and the said order has attained finality, despite which, the notice dated 06.06.2020 came to be issued pursuant to the communication



dated 02.06.2020 by the concerned authority. Learned counsel also submitted that no error is committed by the learned Single Judge while imposing cost of Rs. 10,000/- in the facts of the present case. Learned counsel for respondents/ original petitioners further submitted that pursuant to the initiation of the proceedings under the provisions of the Contempt of Court Act, the original petitioners have been appointed, however, original respondents/authority has not paid salary to the concerned petitioners. Learned counsel, therefore, urged that the present appeal be dismissed.

6. Having heard learned counsels appearing for the parties and having gone through the materials placed on record, it transpires that the advertisement came to be issued for filling up the vacancies on the post of Block Teachers in the year 2008. The original petitioners along with similarly situated candidates participated in the said selection process. It is not in dispute that the original petitioners came to be selected by the Selection Committee. In the meantime, the documents/ certificates of some other candidates were duly verified by the concerned authority from the University/ Institution/ Board. However, some delay had taken place in verification of the documents/ certificates submitted by the original petitioners. The said delay



was on the part of the concerned respondents/authority for which the original petitioners were not responsible. Petitioners, therefore, after waiting for reasonable time, filed appeal before the concerned appellate authority. However, the said appellate authority did not take any decision. Petitioners, therefore, filed writ petition in the year, 2016 before this Court. This Court disposed of the said petition by giving direction to the concerned appellate authority to decide the appeals filed by the concerned petitioners within stipulated time. Pursuant to the said direction issued by this Court, the appellate authority passed an order in favour of the original petitioners whereby direction was given to the concerned original respondents/authority to give an appointment to the concerned petitioners. It would further emerge from the records that despite the direction issued by the appellate authority, the concerned respondent/authority issued communication dated 02.06.2020 pursuant to which notice dated 06.06.2020 came to be issued to the petitioners wherein it has been stated that the appointment of the petitioners has been cancelled. Petitioners, therefore, preferred writ petition before this Court.

7. From the materials placed on record, it would further emerge that the present appellants/ original respondents



did not challenge the order dated 15.07.2019 passed by the concerned appellate authority and it is not in dispute that the said order has attained finality. Despite the order passed by the appellate authority, the impugned communication/ notice came to be issued to the petitioners cancelling their appointment. It is pertinent to note here that petitioners cannot be blamed for the delay in verification of the documents/ certificates by the concerned University/ Board/ Institution. It is not for the original petitioners to verify the said documents. It is also not in dispute that for the selection process in question, which was initiated in the year 2008, similarly situated candidates have been appointed. It is also not in dispute that the petitioners were duly selected in the year 2008 itself and it was not their fault for the delay caused in the process of verification. It is also not in dispute that the present appellants have partly complied with the order passed by the learned Single Judge by appointing the original petitioners on the concerned posts, however, grievance is raised by the learned counsel for the original petitioners that till date salary has not been paid.

8. We have gone through the reasoning recorded by the learned Single Judge and we are of the view that the learned Single Judge has rightly passed the impugned order and the



interest of the original respondents/ present appellants has also been protected by giving liberty to the original respondents to verify the genuineness of the documents/ testimonials/ certificates submitted by the original petitioners for their appointment. Further liberty was given to the original respondents to take appropriate action in accordance with law, if any adverse verification report is received in respect of the documents submitted by the petitioners from the concerned Board/ University/ Institution.

9. In view of the aforesaid discussion, we are of the view that the learned Single Judge has not committed any error while passing the impugned order dated 05.07.2021 passed in C.W.J.C. No. 8123 of 2020 and, therefore, no interference is required in the present appeal. However, at the same time, we are of the view that the cost imposed by the learned Single Judge is required to be interfered with looking to the facts and circumstances of the present case. Accordingly, cost of Rs. 10,000/- which is to be paid by the Respondent No. 4 to each of the petitioners is hereby quashed and set aside.

10. Accordingly, the present appeal is partly allowed to the aforesaid extent only. The present appellants shall do the needful for payment of salary to the original petitioners



within a period of two months from the date of receipt of this order.

(Vipul M. Pancholi, J)

(Sunil Dutta Mishra, J)

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CAV DATE	N.A.
Uploading Date	06.03.2024
Transmission Date	

