

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1069 of 2020

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Ravi Shankar Ram S/o Late Ram Briksh Ram, R/o Village-Saraiyaon, P.O.-
Umapur, P.S.-Bhagwanpur, Distt-Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resource Development, Govt. of Bihar, New Secretariat, Patna.
2. The Collector, Kaimur at Bhabhua.
3. The District Education Superintendent, Kaimur at Bhabhua.
4. The Chairman, District Teacher Appointment Appellate Authority, Kaimur at Bhabhua.
5. The State Appellate Authority Education Department, Bihar.
6. The Mukhiya, Gram Panchayat, Saraiyan, P.O.-Umapur, P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
7. The Panchayat Secretary, Gram Panchayat, Saraiyan, P.O.-Umapur, P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
8. Pramod Kumar, S/o Ram Bali Ram, Resident of Village-Ballipur, P.S.-Bhagwanpur, District-Kaimur (Bhabhua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Achhaibar Singh, Adv.
For the State	:	Mr. Narendra Kumar, AC to GP20
For the Respondent no.8 :		Mr. Yugal Kishore, Adv.
		Mr. Jay Prakash Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 30-04-2024

Heard learned counsel for the petitioner, learned counsel of the State and learned counsel for the private respondent no. 8.

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

“For the issuance of an appropriate writ in the nature of certiorari or for any other writ or writs for quashing the order dated 03.12.2018 passed by the Hon'ble chair person, State Appellate authority, education department Bihar in Appeal no. 100/2018, where by and where under: The Ex-party order of the District Teachers appointment appellate authority, Kaimur at Bhabhua dated 21.04.2009 has been



affirmed and also for giving a direction for compliance of the direction of the District education superintendent -cum- sub- Divisional education officer, Bhabhua (Kaimur) vide memo no.- 279 dated 26.09.2007, which is pending till today.”

3. The case of the petitioner, in brief, is that complying all the criteria for appointment the petitioner filed an application on 02.09.2006 for appointment on the post of Panchayat teacher and received the acceptance slip vide receipt no. 235. The respondent no. 8 has also filed an application for appointment of Panchayat teacher on 31.08.2006. There was 5 posts of Gram Panchayat Teacher vacant in Sarayaion Gram Panchayat at Bhagwanpur Block, Dist.- Kaimur (Bhabhua) in which one post was reserved for S.C. category. Further, regarding aforesaid vacant post 393 applications were accepted by the Mukhiya and Secretary of concerning Gram Panchayat. Four persons were selected by the committee under the Chairmanship of the Mukhiya and one seat for handicap is still vacant.

4. Learned counsel for the petitioner submits that mass level irregularities was done at the time of selection of Panchayat Teacher. Further, according to merit list the name of petitioner was at serial no.-4 and he has obtained 65.56% marks in intermediate examination but in place of petitioner respondent no-8, Pramod Kumar, has been appointed as a teacher who has obtained only 53.55% marks. The petitioner has



appeared in counseling on 04.10.2006 at 1 P.M. and signed on counseling register but the counseling register has been changed by the appointing authority and it has been showed that the petitioner didn't appear in the counseling. Against the irregularities done in the Panchayat teacher appointment, the petitioner has filed an application before Chief Minister Bihar, Education Minister Bihar, District Magistrate Kaimur and District Education Superintendent Kaimur (Bhabhua) on 06.12.2006.

5. On the basis of Letter no.90 dated 02.07.2007 issued by Collector Kaimur an inquiry committee was constituted under the Chairmanship of S.D.O. and the inquiry committee after enquiry has reported on 12.07.2007 and found that petitioner has appeared in counselling and the counselling register has been changed and, accordingly, the inquiry committee has recommended that the existing Panchayat teacher appointment panel should be cancelled and a fresh panel according to the merit list should be prepared. But in spite of the direction, the Panchayat Secretary (Respondent no-7) Saraiyan has not cancelled the teachers employment panel 2006 and not prepared a fresh panel according to merit list. It is also submitted here that report of the inquiry committee and



direction given by the District education superintendent Kaimur (Bhabhua) has not challenged before higher authority or Court till today by any of the respondents.

6. Learned counsel for the petitioner further submits that the Additional Collector, Kaimur, Bhabhua, by Memo no. 936 dated 19.11.2007 has informed the Deputy Secretary C.M. Secretariat Bihar, Patna, stating that direction for cancellation of 2006 Panchayat Teacher selection panel has been given to Panchayat Secretary and a direction for preparation of fresh panel has been also given to Secretary. The illegal employed teachers has filed an application before the District Teachers Appellate Authority, Kaimur (Bhabhua) on 22.01.2009 to payment of dues honorarium on which a case has been registered as case (Appeal) no.-55/2009. After perusal of the order sheet of the District Appellate authority, notice has been issued upon Mukhiya and Panchayat Secretary, Saraiyan on 11.02.2019. A forged and fabricated affidavit has been filed by Mukhiya and Panchayat Secretary on behalf of this petitioner Ravi Shankar Ram on 19.03.2009. Thereafter, the learned District Authority without giving any opportunity to the petitioner and relying on a forged affidavit an ex-parte order has passed in Appeal no.- 55/2009 on 21.04.2009. When petitioner



learnt about an ex-parte order dated 21.04.2009 passed by District Appellate authority obtained certified copy of order on 25.07.2014 and then the petitioner has moved before this Hon'ble court vide C.W.J.C. No.-15287 of 2014 and after hearing the parties the Hon'ble High court has permitted to withdraw the writ petition to prefer an appeal before Hon'ble State Appellate authority by order dated 20.11.2017. Thereafter, petitioner has filed an appeal before Hon'ble State Appellate authority vide appeal no.-100/2018, which was heard and, accordingly, disallowed on 03.12.2018.

7. Learned counsel for the petitioner further submits that at the time of counseling petitioner has appeared on 14.10.2006 before the appointing authority and handed over the mark sheet of intermediate with other papers to concerning Panchayat Secretary of the Gram Panchayat, Saraiyan. When petitioner has knew about the forged and fabricated affidavit filed by the Mukhiya and panchayat Secretary, Saraiyan before the learned District authority, he had filed a complaint case before S.D.J.M Kaimur against concerning person vide complaint case no. 1155 of 2014, in which cognizance has been taken against the Mukhiya, the Panchayat Secretary and others u/s 468/34 of I.P.C. by order dated 09.12.2015. The respondent



no.8 namely Pramod Kumar has joined on the post of Nayay Mitra in Gram KachahreeTodi and worked on that post. Further a letter was also issued from the office of collector Kaimur (Bhabhua) vide memo no-450 dated 21.10.2008, which showed that the respondent no. 8 was working as Naya Mitra from 15.10.2007 to September 2008 and *samwida* amount has been paid by D.M.. He lastly submits that the District Appellate Authority and the State Appellate Authority has wrongly accepted the forged and fabricated affidavit filed by Mukhiya and Panchayat Secretary on behalf of this petitioner and also held that the petitioner has not appeared in the counselling.

8. A counter affidavit has been filed on behalf of the respondent no. 3. No counter affidavit has been filed on behalf of the private respondent no. 8, but on the basis of direction he argued in the Court.

9. Learned counsel for the private respondent no. 8 submits that under Rule 18 of the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006, the Block Development Officer was vested with the power to take a decision on complaint regarding employment of Panchayat teachers, but no appeal or complaint was filed before the B.D.O. in place of that the petitioner filed appeal before the



District Magistrate. Thereafter, on the direction of District Magistrate, an inquiry was conducted and it was found that the appointment of the private respondent no. 8 was wrongly made and the counselling was held illegal, but no action was taken. He further submits that the District Appellate Authority and the State Appellate Authority have been pleased to dismiss the plea of the petitioner on the ground that the petitioner has not appeared in the counselling. He further submits that in a recent judgment of the Division Bench it is held that the person, who has not passed the Teacher Training Examination, was not eligible to be appointed on the post of teacher and it is admitted fact that the petitioner has not passed the Teacher Training Examination.

10. Considering the arguments advanced on behalf of the parties and the materials available on record, I am not inclined to interfere with the orders passed by the District Appellate Authority and the State Appellate Authority. Accordingly, the present writ petition is dismissed.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2024
Transmission Date	NA

