

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2871 of 2020

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Upendra Mahto Son of Late Tapsi Mahto, Resident of Village-Jhanjhari, P.O. Ghorpakari, P.S. Inerwa, District West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna
4. The District Programme Officer, West Champaran, Bettiah.
5. The Block Education Officer, Gonaha, Gonaha Block, West Champaran, Bettiah.
6. The Panchayat Secretary, Gram Panchayat Raj, Jamunia, Gonaha, West Champaran at Bettiah
7. Gayas Ansari Son of Sadiq Ansari Resident of Village-Bargajba, P.S. Shikarpur, District West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajnish Kumar Choubey
For the Respondent/s	:	Mrs. Shilpa Singh (Ga12)
		Ms. Abhanjalli
For the Private Respondent:		Mr. Sanjay Kumar

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 02-09-2024

Heard the parties.

2. The present writ application has been filed for quashing the order dated 19.06.2019 passed in Appeal No.335 of 2017 by the State Appellate Authority, Patna by which the order dated 17.01.2012 passed in Case No.503 of 2010 by the learned District Appellate Authority in favour of the petitioner has been reversed without having any valid basis thereof. Petitioner prays that after quashing the impugned order dated 19.06.2019, petitioner may be



considered for recruitment as a teacher and for grant of all consequential benefits.

3. Learned counsel for the petitioner submits that the dispute pertains to the second phase of employment undertaken by the Employment Unit of Gram Panchayat Raj, Jamunia, Gonaha, West Champaran at Bettiah. There is no dispute that the petitioner as well as the private respondent no.7 were aspirants. There is no dispute that counselling was first held on 29.02.2009 and a merit list was drawn. However, it is admitted position that no appointment letter could be issued to any of the selected candidates. The Employment Unit did not complete the process of selection. In the aforesaid background, the State Government by a notification published in the daily newspaper fixed 13.08.2010/14.08.2010 for the completion of the employment process of Panchayat Teacher in different Panchayats of the State of Bihar. The counselling was to be held on the aforesaid dates whereafter the appointment letters were to be issued.

4. According to the private respondent as well as the Panchayat Secretary, the private respondent no.7 had appeared for his counselling on 13.08.2010/14.08.2010 whereas the petitioner did not. Even though the private respondent had lower merit point than the petitioner, the Employment Unit issued appointment letter in



favour of the private respondent no.7 on 14.08.2010.

5. He further submits that the case of the petitioner is not that he appeared for the counselling and verification of the documents on 13.08.2010/14.08.2010. Specific case of the petitioner is that he appeared on 29.12.2010/30.12.2010 when appointments were to be made in the second stage.

6. That the specific stand of the petitioner is that on 13.08.2010/14.08.2010, he was not required to appear. Even if he was to appear on those dates, no information by post was given to him. The petitioner had appeared for counselling/verification of the documents on 29.12.2010/30.12.2010 which were the dates fixed for completion of the employment process against all the non-filled up vacancy.

7. He further submits that although the petitioner having higher marks and admittedly he was at Sl. No.56 of the merit list whereas the private respondent no.7 was at Sl. No.66 and they belonged to E.B.C category but arbitrarily the private respondent no.7 was given appointment letter ignoring the claim of the petitioner.

8. Being aggrieved, petitioner filed an appeal before the District Teachers Appellate Authority being Appeal No.503 of 2010 and the District Teachers Appellate Authority vide its order dated 17.01.2012 contained in Memo No.26 allowed the appeal of



the petitioner having found substance and merit in his case.

9. He further submits that thereafter the private respondent no.7 filed a writ application bearing C.W.J.C. No.3495 of 2012 which was heard and allowed to be withdrawn to prefer appeal before the State Appellate Authority vide order dated 01.08.2017.

10. He further submits that the State Appellate Authority has passed the order in favour of the private respondent no.7 without application of mind in its corrective manner.

11. A counter affidavit is filed on behalf of the respondent no.4 in which it is stated that although the petitioner has higher marks than that of the private respondent no.7 in E.B.C. category but the petitioner was not present and as per the direction of the Education Department, private respondent no.7 was given the appointment letter.

12. He further submits that for taking appointment letter after verification, one must be physically present at the Niyojan centre, but it is the petitioner who did not appear hence next candidate from the same category was given the appointment letter. Therefore, the order passed by the State Appellate Authority is quite legal and this writ application is fit to be dismissed.

13. A counter affidavit is also filed on behalf of the private respondent no.7 in which it is stated that during the selection



process, counselling was held on 13.08.2010 in which the respondent no.7 appeared and finally selected. After that appointment letter was issued to him intimating therein for submitting consent letter and thereafter to join within 10 days. Accordingly, he submitted his consent letter and joined on 21.08.2010.

14. He further submits that the Panchayat Secretary of the Gram Panchayat Raj Jamunia stated before the Tribunal that the allegation levelled by the petitioner was not correct. The counselling was held on 13.08.2010 and 14.08.2010 but the petitioner did not appear on that very dates so the respondent no.7 had been appointed as Panchayat Teacher. The common date of counselling was 13.08.2010 and 14.08.2010 and every candidates were required to appear on these two dates for final selection. Therefore, the appointment committee has not done any irregularity in appointing the respondent no.7 against the post of Panchayat Teacher.

15. Having heard the arguments advanced on behalf of the parties. It is an admitted fact that the counselling was held on 13.08.2010 and 14.08.2010 but the petitioner did not appear on that dates. He appeared in the counselling on 29.12.2010 and 30.12.2010, which were the dates fixed for completing the



employment process against all the vacant seats and he challenged the counselling held on 13.08.2010/14.08.2010 in which he did not appear. It is also an admitted fact that the counselling was held on 13.08.2010 in which the respondent no.7 appeared and finally selected. Therefore, the appointment committee has not done any irregularity in appointing respondent no.7.

16. Considering the facts and circumstances of the case, I do not find any irregularity or illegality in the order passed by the State Appellate Authority. As such, there is no merit in the present writ application.

17. In the result, this writ application stands dismissed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2024
Transmission Date	NA

