

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.406 of 2024**

**In**

**Civil Writ Jurisdiction Case No.7083 of 2019**

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Gangadhar Bihari Son of Sri Ram Chandra Mahto Resident of Village Mubarakpur, Fulkari Gram Panchayat Raj Parra, Block- Birpur, District Begusarai, Presently working inder the Headmaster of Primary School, Saraunja (East), as Panchayat Teacher, Gram panchayat Raj Parra, P.O. and Block- Birpur, District- Begusarai

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources (Now Education Department). Government of Bihar, Patna.
2. The District Magistrate Begusarai.
3. The District Education Officer Begusarai
4. The District Programme Officer (Establishment) Begusarai
5. The Block Development Officer Birpur, Begusarai
6. The Block Education Extension Officer Birpur, Begusarai.
7. The Mukhiya-cum-Chairman Panchayat Teachers Niyojan Committee, Gram Panchayat Raj Parra, Block- Birpur, Begusarai.
8. The Panchayat Secretary-cum-Secretary of Panchayat Teachers Niyojan Committee Gram Panchayat Raj Parra, Block- Birpur, Begusarai.
9. Lal Babu Sah Son of Sri Bhola Sah Resident of village Saraunja under Gram Panchayat Raj Parra, Block and P.S.- Birpur, District- Begusarai.

... .. Respondent/s

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**Appearance :**

|                          |   |                                                    |
|--------------------------|---|----------------------------------------------------|
| For the Appellant/s      | : | Mr. P.N.Shahi, Sr. Advocate<br>Mr.Shivam, Advocate |
| For the Respondent/s     | : | Mr. Anjaneya Singh, AC to AAG-13                   |
| For the Respondent No.9: | : | Mr. Mithilesh Kumar, Advocate                      |

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

**Date : 05-02-2025**

Heard Mr. P.N. Shahi, the learned Senior Advocate for the appellant and Mr. Mithilesh Kumar, learned Advocate for the respondent no. 9. The State is represented by Mr. Anjaneya Singh, learned Advocate.



2. The judgment under challenge is dated 18.03.2024 passed in C.W.J.C. No. 7083 of 2019, whereby the conclusion of the State Appellate Tribunal in favour of respondent no. 9 has been approved and not interfered with, holding that respondent no. 9 would be entitled to be appointed as Panchayat Teacher in the concerned Block as he had more marks than the appellant and both of them came from the Backward Category.

3. The facts of this case need be narrated in short. Against an advertisement issued in the year 2008 for appointment of Panchayat Teachers, the appellant and the respondent along with several others applied. Both of them were successful but in the counselling which was held on 28.02.2009, respondent no. 9 did not appear, leaving the field open for the appellant as the person in Backward Category having obtained highest marks. Precisely for this reason, he was selected and joined as a Panchayat Teacher, where he continued to teach for about 14 years.

4. After about ten months of the selection of the appellant on such post, a complaint was made by respondent no. 9 before the District Teachers Appellate Authority, alleging that he was wrongly shut out from the selection process by treating him as a candidate in the General Category. In fact, he had applied in the Backward



Category and had the highest marks in that category.

5. In any view of the matter, if his name would have been shown in the merit list of Backward Class candidates, he would have been the first from the list to be chosen. That he did not attend the counselling was because his name never appeared in the merit list of the Backward Category candidates.

6. It may be noted here that the merit list was posted by the employment unit inviting objections. No objection appears to have been raised by respondent no. 9 and, therefore, other persons were appointed in different categories including the appellant in the Backward Category.

7. The private respondent no. 9 thereafter came before this Court *vide* C.W.J.C. No. 6032 of 2012, which was dismissed for non-prosecution and the prayer for restoring the case to its original file also got dismissed. Another writ was filed by him *vide* C.W.J.C. No. 13836 of 2013, which too was dismissed but liberty was given to respondent no. 9 to approach the State Teachers Appellate Authority.

8. The appeal of respondent no. 9 before the State Teachers Appellate Authority was allowed holding that the entire documents placed on record clearly indicated that the respondent no. 9 had applied in the



Backward Category and had more marks than the appellant.

9. The challenge by the appellant against that order in C.W.J.C. No. 7083 of 2019 could not be sustained and the order passed by the State Teachers Appellate Authority was affirmed.

10. Though we have not been able to find the exact reason for the learned Single Judge to have come to the conclusion that the respondent no. 9 had applied in the Backward Category, but from the order passed by the State Teachers Appellate Authority, we have found that a proper inquiry was made and only thereafter it could be ascertained that there was an entry in the register maintained by Mukhiya, showing the respondent as having applied in the General Category and not Backward Category.

11. The State Teachers Appellate Authority has categorically recorded the submissions of the parties. It had called for the report from the BDO, which was brought on record by way of an affidavit. The affidavit read that from the perusal of the inquiry report, it was clear that the respondent no. 9 herein belonged to Backward Category at the time of filing of the application in the year 2018 and the same was deliberately and knowingly shown as one under Un-reserved Male



Category, perhaps at the instance of the employment unit. The State Teachers Appellate Authority also examined the report submitted by BEO, Birpur, Begusarai, which was in tabular form regarding the entries made in the application form of the appellant and the respondent no. 9.

12. Thus, the State Teachers Appellate Authority was of the view that in the three registers produced and perused, in two of them, the respondent no. 9 was shown as a person from Backward Category whereas in one of the registers, he was shown as a person of Un-reserved Category. It was also brought to the notice of the State Appellate Authority that the then Panchayat Secretary of the said Gram Panchayat had faced criminal prosecution for his culpable acts committed during the process of selection while he was in office. It was thus conclusively held that respondent no. 9 was the most suitable candidate to be appointed as Panchayat Teacher and only because he was wrongly shown as a person from Un-reserved Category, the appellant got a chance to be appointed.

13. This being the factual situation, we do not wish to interfere with the judgment passed by the learned Single Judge affirming the order passed by the State Teachers Appellate Authority.



14. Nonetheless, we must make it clear that nothing appeared on record which would indicate that the appellant was selected as the Panchayat Teacher because of any collusion on his part and that he gained the experience of teaching at Panchayat level for about 14 years, which might, in case required, enure in his favour.

15. Thus, dismissing this appeal, we direct the respondent/employment unit to appoint respondent no. 9 in place of the appellant forthwith and not later than 15 days from the production of a copy of this order before the employment unit.

16. We also make it clear that for the period that the appellant had worked, he ought to be paid his salary, unless otherwise his entitlement is questioned.

17. The appeal stands disposed of accordingly.

18. Interlocutory application(s), if any, shall also stand disposed of.

**(Ashutosh Kumar, ACJ)**

**(Partha Sarthy, J)**

Sujit/Krishna

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