

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1231 of 2024**

**In**  
**Civil Writ Jurisdiction Case No.4274 of 2021**

Kunal Kapoor, aged about 42 years, male, S/o Dinesh Mehta, R/o 246, Ward No.06, Village- Bishunpur, P.S.- Bela, District- Sitamarhi.

... .. Appellant

Versus

1. Zila Parishad Sitamarhi cum Employment Unit through its Secretary DDC cum CEO, Zila Parishad, Sitamarhi.
2. The State of Bihar through its Principal Secretary, Education Department, Government of Bihar, Patna.
3. The District Education Officer, District- Sitamarhi.
4. The District Programme Officer, (Establishment), Sitamarhi.
5. The District Appellate Authority, Sitamarhi.
6. The State Appellate Authority, 5 C-D, Niyojan Bhawan, Bailey Road, Patna.

... .. Respondents

**Appearance :**

|                                  |   |                                                                    |
|----------------------------------|---|--------------------------------------------------------------------|
| For the Appellant                | : | Mr. Yogesh Chandra Verma, Sr. Advocate<br>Mr. Anuj Kumar, Advocate |
| For the Zila Parishad, Sitamarhi | : | Mr. Ranjeet Kumar Pandey, Advocate                                 |
| For the State                    | : | Mr. Sarvesh Kumar Singh, AAG-13<br>Mr. Abhinav Alok, AC to AAG-13  |

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)**

**Date : 23-07-2025**

The present intra court appeal is directed against the order dated 11.11.2024, passed by the learned Single Judge in CWJC No.4274 of 2021, whereby the said writ petition, filed by the Respondent herein, was allowed and it was decided that the initial appointment was not made in terms of the vacancies notified under the advertisement by the District Education



Officer, Sitamarhi.

2. As per the facts on record, the District Education Officer, Sitamarhi had advertised vacancy in respect of the post of Teachers in Madhyamik School, where sixteen posts were advertised for the subject of Social Sciences. A roster pointwise chart was prepared and published under the joint signature of the District Education Officer Sitamarhi, the District Programme Officer (Madhyamik Siksha), Sitamarhi, and the District Programme Officer (Establishment), Sitamarhi, which was further approved by the Regional Deputy Director of the Education Directorate. In the said advertisement, reservations to the grandchildren of Freedom Fighter was not mentioned. Even, no such decision by the competent authority was taken subsequently to appoint under the said category by the Zila Parishad, Sitamarhi.

3. On 05.10.2017, a meeting of Zila Parishad, Sitamarhi was held, where fourteen appointment letters were issued, but due to a mistake, an appointment letter was issued in favour of the appellant herein. On the very next day, the said appointment letter was cancelled by an order of the Zila Parishad, Sitamarhi. Against the said order, the appellant moved to the District Appellate Authority, Sitamarhi, and the District



Appellate Authority rejected the cancellation order of the appointment by the Zila Parishad, Sitmarhi. Subsequently, the Respondents herein, appealed before the State Appellate Authority, Patna, which was dismissed. Thereupon, the respondents filed the writ petition vide CWJC No.4274 of 2021 before this Court.

4. The learned Single Judge, after considering the contentions of both the parties, had allowed the writ petition, and had disagreed with the orders passed by the District Education Appellate Authority, Sitamarhi and the State Appellate Authority, Patna taking into consideration, the advertisement which was published by the District Education Officer, which had no mention of the above quota of grandchildren of the Freedom Fighters.

5. The learned counsel for the appellant has submitted that the learned Single Judge did not consider the facts and circumstances of the case in its entirety. The appellant further submits that the quota was to be applied on the entire 170 posts and not on sixteen posts for the subject of Social Sciences only. The appellant has also contended that he was appointed on the basis of his merit under 2% horizontal reservation quota for grandchildren of Freedom Fighters and



was given appointment letter after the counselling held for the said posts by the Zila Parishad, Sitamarhi, which was later cancelled by the Zila Parishad.

6. The respondents submitted that the appointments were to be made in terms of the advertisement, and if during the recruitment process, the quota for a particular class is not marked, the appointment cannot be made in that class or category. The respondents have also submitted that the appointment letter was issued to the appellant due to an inadvertent mistake, and the Zila Parishad, Sitamarhi, was authorized to rectify the said mistake.

7. We have heard the learned counsel for the appellant and have also gone through the impugned order passed by the learned Single Judge.

8. It is clear from the facts that, here, no seat was advertised under the quota of grandchildren of Freedom Fighters, but appointment letter was wrongly given to the appellant by the Zila Parishad, Sitamarhi. The Zila Parishad corrected its mistake on the very next date and the appointment letter was issued to the appellant was cancelled by the concerned authorities.

9. Administrative Authorities have the power to



correct their mistakes, as observed by the Hon'ble Supreme Court in *National Institute of Technology v U. Dinakar and Anr.* reported in *(2014) 13 SCC 180*. In this case, the Court upheld the right of Institute, which is an Administrative Authority, to correct their mistakes which were made in the appointment order. Similarly, here the Zila Parishad, Sitamarhi had the right to cancel the appointment letter which was issued to the appellant herein by mistake.

10. Paragraph 7 of the writ court judgment, reads as under-

*“It is needless to say that an appointment must be made in respect of vacancies and if the vacancy to a certain recruitment process does not disclose quota for a particular cadre/group, appointment cannot be made taking into account the vacancy in the said group.”*

11. The learned Single Judge had correctly assessed the facts of the case and rightly held that no vacancy was advertised by the District Education Officer under the quota of grandchildren of Freedom Fighters. The act of the Zila Parishad, i.e., giving the appointment letter to the appellant, was illegal, and it cannot confer any legal rights to him to remain in service.

12. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.



13. Pending application(s) if any, shall stand disposed of.

(Sudhir Singh, J.)

(Ramesh Chand Malviya, J.)

Gaurav Kumar/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 29.07.2025 |
| Transmission Date | N.A.       |

