

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.888 of 2024

In
Civil Writ Jurisdiction Case No.17244 of 2015

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Ram Dinesh Sahni Son of Deolal Sahni resident of Village- Madhuwan Kanti,
P.O.- Jamin Matiya, P.S.- Meenapur, District- Muzaffarpur .

... .. Appellant

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The District Education Officer, Muzaffarpur.
5. The District Programme Officer, Establishment, Muzaffarpur.
6. The Block Development Officer, Meenapur Block, District- Muzaffarpur.
7. The Block Education Officer, Meenapur Block, Muzaffarpur.
8. The Mukhiya, Panchayat Rajwara Bharti, Block- Meenapur, District- Muzaffarpur.
9. Panchayat Secretary, Panchayat Rajwara Bharti, Block- Meenapur, District- Muzaffarpur.
10. Bhole Shankar Kumar, Son of Sri Yugal Das Resident of Village- Pakhnaha Jeetwar, P.S.- Meenapur, District- Muzaffarpur.

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Rajeev Ranjan, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13
For the Respondent No.10 :	:	Mr. Krishna Kant Singh, Advocate
	:	Mr. Kundan Kumar, Advocate
	:	Mr. Kumar Shaswat Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

3 06-04-2026

Heard learned counsel for the parties.

2. The present *intra* Court appeal has been preferred against the order dated 02.08.2024 passed in CWJC No.17244 of 2015, whereby the learned Single Judge has allowed the writ



application.

3. The present case arises out of a dispute concerning appointment to the post of Panchayat Shiksha Mitra in Gram Panchayat Raj Bara Bharati, Meenapur Block, District Muzaffarpur. Pursuant to a selection process held in the year 2004–2005, the writ petitioner (Respondent no. 10 herein), Bhole Shankar Kumar, was selected and appointed on 27.05.2005 and continued in service. Upon enforcement of the Bihar Panchayat Elementary Teachers (Appointment and Service Conditions) Rules, 2006 with effect from 01.07.2006, the post of Panchayat Shiksha Mitra stood abolished and existing incumbents were absorbed as Panchayat Teachers.

4. Subsequently, on a complaint made by the present appellant, Ram Dinesh Sahni, alleging irregularities in the selection process, the District Magistrate, Muzaffarpur, cancelled the entire selection *vide* order dated 26.12.2007. The matter thereafter proceeded before the District Appellate Authority in Appeal Case No. 149/2010, which allowed the claim of the appellant *vide* order dated 15.07.2011. The said order, however, was stayed by this Court on 16.12.2011 in CWJC No. 22411 of 2011 and ultimately quashed on 04.09.2013. Notwithstanding the subsistence of the stay, the



authorities proceeded to implement the Tribunal's order and appointed the appellant on 30.06.2012, resulting in removal of the writ petitioner.

5. Thereafter, by resolution dated 25.11.2013, the Panchayat Employment Unit held the initial appointment of the writ petitioner to be illegal. The learned Single Judge, by the impugned order, set aside such action and directed reinstatement of the writ petitioner.

6. Considering the facts of the case, the learned Single Judge made the following observations in paragraphs 22, 23 & 25 to 32 of the impugned order, which are reproduced as under:

"22. The decision of the Panchayat Secretary and the Employment Unit overriding the order of this Court is unknown to the rule of law and is contumacious.

23. Furthermore, after coming into force of the 2006 Rules with effect from 01.07.2006, the appointment of Panchayat Shiksha Mitra cannot be interfered into and cancelled retrospectively in view of the decision of the Division Bench, in the case of Renu Kumari Pandey (supra) and the Full Bench decision of this Court, in the case of Kalpana Rani (supra).

25. It is not in dispute that the petitioner was appointed as Panchayat Shiksha Mitra prior to coming into force of the 2006 Rules on 01.07.2006 and after conversion he was



working as Panchayat Teacher. The complaint of respondent no. 10 that there was irregularity at the time of appointment of Panchayat Shiksha Mitra and he was left out cannot be agitated by him after conversion of the post of Panchayat Shiksha Mitra into Panchayat Teacher with effect from 01.07.2006.

26. The Full Bench of this Court, in Kalpana Rani (supra) has held as follows:-

“118. Having thus given my anxious consideration, I am of the view that after 1.7.2006, no person, who was earlier an Patna High Court LPA No.1569 of 2010 dt. 15-05-2014 aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 1.7.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench judgment in the case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly, overruled.”

27. I have given my anxious consideration upon the facts and law discussed herein above and come to the finding that removal of the



petitioner by the Panchayat Secretary and the Employment Unit by misinterpreting the order of this Court, dated 04.09.2013, passed in CWJC No. 22411 of 2011 is not sustainable and is liable to be set aside. The Panchayat Secretary by distorting and concealing the fact regarding stay of the operation of the order passed by the Tribunal, implemented the order of the Tribunal on 30.06.2012 and appointed the respondent no. 10 in order to favour him.

28. The respondent no. 10 was not appointed as Panchayat Shiksha Mitra before 01.07.2006. As such, he has no right to claim employment or deemed employment as Panchayat Shiksha Mitra or has a right to be absorbed as Panchayat Teacher by operation of Rule 20 (iii) of the 2006 Rules.

29. Considering the same, I come to the conclusion that the removal of the petitioner as Panchayat Teacher and appointment of respondent no. 10 in the garb of implementation of the order passed by the Tribunal is completely illegal, arbitrary, mala fide and unsustainable in law.

30. Accordingly, the order/resolution of the Selection Committee, dated 25.11.2013 and the Memo No. 210, dated 30.11.2013, issued under the signature of the Panchayat Secretary are set aside. The appointment of the respondent no. 10 as Panchayat Teacher is also set aside.

31. The respondent authorities are directed to reinstate the petitioner as Panchayat Teacher on



the post vacated by respondent no. 10 within a period of two months from today without any back wages.

32. It is made clear that if the petitioner does not complete the teachers' training, arranged by the respondents or otherwise, within the stipulated time fixed by the concerned respondents, the authorities shall be at liberty to take appropriate action against the petitioner as per law."

7. Learned counsel for the appellant submits that the learned Single Judge failed to consider the order dated 15.07.2011 passed by the District Appellate Authority in Appeal Case No. 149 of 2010, whereby the Tribunal, upon consideration of the records, held the appointment of the writ petitioner to be contrary to roster and merit and found the appellant entitled to appointment. It is further submitted that the appellant had raised objections regarding irregularities in the selection process at the earliest point of time, and therefore, his claim is bona fide. It is thus urged that the learned Single Judge failed to properly consider the findings of the Tribunal and the materials on record, rendering the impugned judgment unsustainable.

8. *Per contra*, learned counsel for the respondent submits that the foundation of the appellant's claim, namely the



Tribunal's order dated 15.07.2011, stood stayed and subsequently quashed, and therefore, no right could flow therefrom. It is further submitted that the writ petitioner, having been validly appointed prior to 01.07.2006, acquired statutory protection under the 2006 Rules, and the appellant, never having been appointed as Panchayat Shiksha Mitra, had no enforceable right.

9. The limited issue which arises for consideration in the present *intra court* appeal is that whether the learned Single Judge committed any error, warranting interference in intra-Court appellate jurisdiction, in setting aside the appointment of the appellant and directing reinstatement of the writ petitioner.

10. Upon perusal of the materials available on record and submissions made by the learned counsel for the parties, it is evident that the writ petitioner (Respondent no. 10) was appointed as Panchayat Shiksha Mitra on 27.05.2005 and was in continuous service prior to the coming into force of the 2006 Rules. By operation of the 2006 Rules, his services were absorbed as Panchayat Teacher. This foundational fact is undisputed and has rightly been taken note of by the learned Single Judge also.

11. The claim of the appellant is entirely founded



upon the order dated 15.07.2011 passed by the Tribunal in Appeal Case No. 149/2010. However, it is an admitted position that the said order was stayed by this Court on 16.12.2011 and was subsequently quashed on 04.09.2013. Once the very basis of the appellant's claim stood nullified, any consequential action taken in furtherance thereof cannot survive in the eye of law. The learned Single Judge has correctly appreciated this aspect and rightly discarded the claim of the appellant founded upon such order.

12. More importantly, during the subsistence of the stay order, the authorities proceeded to implement the Tribunal's order and appointed the appellant on 30.06.2012. Such action, being in clear disregard of a subsisting judicial order, is *ex facie* impermissible and void. The learned Single Judge has, therefore, rightly held such action to be arbitrary and unsustainable. At this juncture, it is pertinent to take note of the judgment rendered by the Hon'ble Supreme Court in ***East India Commercial Co. Ltd. vs. Collector of Customs***, reported in ***AIR 1962 SC 1893***, has held that orders of superior courts are binding on all authorities and any action in violation thereof is void and without jurisdiction. The relevant part of the said judgement reads as follows:

“31...We, therefore, hold that the law declared by the



highest court in the State is binding on authorities or tribunals under its superintendence, and that they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding. If that be so, the notice issued by the authority signifying the launching of proceedings contrary to the law laid down by the High Court would be invalid and the proceedings themselves would be without jurisdiction.”

13. The learned Single Judge has also rightly relied upon the binding precedents governing the field. The Division Bench judgment in ***Renu Kumari Pandey vs. State of Bihar, 2011 (4) PLJR 297***, had taken the view that after coming into force of the 2006 Rules, claims based on earlier selection as Panchayat Shiksha Mitra cannot be entertained. The relevant paragraph of the said order is reproduced as under:

“17.In our opinion, even in a case where a person has a legitimate grievance in respect of his or her non-selection as Panchayat Shiksha Mitra at the relevant time or non-continuance as Panchayat Shiksha Mitra, such person cannot be deemed to have been appointed as Panchayat Shiksha Mitra; nor can he/she be deemed to have been employed as Panchayat Shiksha Mitra as on 1st July, 2006; nor can such person be deemed to have been absorbed in service as Panchayat Shikshak under the Rules.”



14. The said legal position has subsequently been considered and affirmed by the Full Bench of this Court in ***Kalpana Rani vs. State of Bihar, 2014 (2) PLJR 665***, wherein it has been conclusively held that after 01.07.2006, no person can claim appointment on the basis of earlier empanelment as Panchayat Shiksha Mitra. The relevant paragraphs of the said order are reproduced as under:

“106.A question, therefore, would arise as to whether in term of the repeal of the executive instruction of Panchayat Shiksha Mitra in terms of Rule 20(i) of 2006 Rules, could any dispute be adjudicated for appointment on the post of Panchayat Shiksha Mitra? The answer to this must be in negative, inasmuch as, if the entire provision for Panchayat Shiksha Mitra was itself repealed, there could not have been any appointment on the abolished post of Panchayat Shiksha Mitra. It is this aspect of the matter which has been dealt elaborately in the earlier Division Bench judgment in the case of Smt. Renu Kumari Pandey (supra) and I do not find any error in the same.

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118. ...Having thus given my anxious consideration, I am of the view that after 1.7.2006, no person, who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or



her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 1.7.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench judgment in the case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly, overruled.”

15. In the present case, the appellant admittedly was never appointed as Panchayat Shiksha Mitra prior to 01.07.2006. Consequently, he did not acquire any legal or statutory right to seek appointment or absorption as Panchayat Teacher under the statutory scheme.

16. The submissions advanced on behalf of the appellant with regard to merit position, category and roster cannot override the statutory provisions and the binding judicial pronouncements governing the field. Furthermore, such claims raised after the statutory transition had taken effect, cannot be permitted to unsettle a position which had already attained finality.



17. So far as the scope of interference in an *intra-Court* appeal is concerned, it is well settled that the appellate Court would interfere only when the judgment under appeal suffers from patent illegality, perversity or error apparent on the face of the record. The Hon'ble Supreme Court in ***Management of Narendra & Co. Pvt. Ltd. vs. Workmen, reported in (2016) 3 SCC 340*** , has held that appellate interference is warranted only when findings are perverse or based on no evidence. The relevant part of the said judgment reads as follows:

"5. Once the learned Single Judge having seen the records had come to the conclusion that the industry was not functioning after January 1995, there is no justification in entering a different finding without any further material before the Division Bench. The Appellate Bench ought to have noticed that the statement of MW 3 is itself part of the evidence before the Labour Court. Be that as it may, in an intra-court appeal, on a finding of fact, unless the Appellate Bench reaches a conclusion that the finding of the Single Bench is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the Single Judge, unless both sides agree for a fairer approach on relief."

18. Applying the aforesaid principles to the facts of



the present case, this Court finds that the learned Single Judge has correctly appreciated both the factual matrix and the settled legal position. The findings recorded are based on materials on record and are in consonance with the statutory scheme as well as binding precedents, and the same deserve to be upheld.

19. This Court, upon independent consideration, finds no infirmity in the impugned judgment. The findings are neither perverse nor contrary to law; rather, they are in consonance with the statutory framework and binding precedents. The view taken by the learned Single Judge that the removal of the writ petitioner and appointment of the appellant, purportedly in implementation of a non-existent and stayed Tribunal order, was illegal and unsustainable, is fully justified and calls for no interference.

20. Accordingly, the present appeal stands dismissed.

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

(Sudhir Singh, J.)

(Shailendra Singh, J.)

Gaurav Kumar/-

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