

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1041 of 2014

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*Upendra Kumar Son Of Jay Narayan Yadav Resident Of Village- Sarari, P.O.-Karanja,
P.S.- Naubatpur, District- Patna*

... ... Petitioner/s

Versus

- 1. The State Of Bihar through the Principal Secretary Human Resource Development Department, Bihar*
- 2. The Secretary, Jila Sikshak Niyojan Appellate Authority, Patna*
- 3. The Block Education Officer, Naubatpur Block, Naubatpur, District- Patna*
- 4. The Panchayat Secretary, Gram Panchayat Karanja Gawai, Naubatpur Block, District- Patna*
- 5. The Mukhiya, Gram Panchayat Karanja Gowai, Naubatpur Block, District- Patna*
- 6. Satyendra Kumar Son Of Yogeshwar Manjhi Resident Of Village- Goaye, P.O.- Karanja, P.S.- Naubatpur, District- Patna*
- 7. Rajnikant Son Of Ram Singhasan Singh Resident Of Village P.O.- Karanja, P.S.- Naubatpur, District- Patna*
- 8. Bipin Kumar Son Of Yogeshwar Singh Resident Of Village- Goaye Chak, P.O.- Karanja, P.S.- Naubatpur, District- Patna*

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravibhushan Kumar, Advocate

For the Respondent/s : Mr. Ajay, GA 5

Mr. Rakesh Kumar Ranjan , AC to GA 5

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Constitution of India---Article 226---Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006-- Rule 20(iii)---writ petition to terminate private respondents from the post of Panchayat Shiksha Mitra ("P.S.M.") and to appoint the petitioner on the post of P.S.M./"Panchayat Teacher"--- plea that despite having higher marks than other appointees, Petitioner's name was not considered for appointment whereas private respondents were appointed for wrongful gains—Held: Since the post of P.S.M. stood abolished on 01.07.2006 after coming into force of the Rules, 2006; no

person can be employed, claim employment as P.S.M./“Panchayat Teacher” retrospectively--- petitioner was not employed as P.S.M. as on 01.07.2006 i.e. at the time of conversion of P.S.M. as “Panchayat Teacher” and, hence, has no right to claim employment / deemed employment as P.S.M. or has right to be absorbed in service as “Panchayat Teacher”---writ petition dismissed. (Para 2, 4, 5)

2011(4) PLJR 297 (DB), 2014 (2) PLJR 665 (FB)

.....Relied Upon.

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For the Respondent/s : Mr. Ajay, GA 5

Mr. Rakesh Kumar Ranjan , AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT
Date : 16-05-2024

1. The present application has been filed for a direction to the respondent concerned to terminate the respondent nos. 6, 7 & 8 from the post of Panchayat Shiksha Mitra (in short “P.S.M.”) and to appoint the petitioner on the post of P.S.M. / “Panchayat Teacher”.



2. Learned counsel for the petitioner submits that the petitioner applied for appointment on the post of P.S.M. in the year 2003 and despite having higher marks than other appointees, his name was not considered for appointment. The petitioner filed representation before the Principal secretary, Human Resource Development Department, Government of Bihar but till date no action has been taken in this regard. The Mukhiya in collusion with Panchayat Secretary has appointed the respondent nos. 6, 7 & 8 for wrongful gains which is in violation of the departmental rules.

3. Learned counsel for the State submits that in view of the Division Bench and Full Bench judgment of this Court, issuance of writ directing the respondent concerned to terminate the respondent nos. 6, 7 & 8 from the post of P.S.M. shall be a futile exercise since the post of P.S.M. stood abolished on 01.07.2006 after coming into force of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 [hereinafter referred to as the “Rules, 2006”].

4. I have heard learned counsel for the parties. Since the post of P.S.M. stood abolished on 01.07.2006 after coming into force of the Rules, 2006; no person can be employed, claim employment / deemed employment as P.S.M. / “Panchayat



Teacher” retrospectively as held by a Division Bench of this Court in the judgment passed in the case of Smt. Renu Kumari Pandey & Others *versus* The State of Bihar & Others reported in 2011(4) PLJR 297 (DB). The aforesaid Division Bench judgment has been affirmed by Full Bench of this Court in the case of Kalpana Rani *versus* The State of Bihar & Others reported in 2014 (2) PLJR 665 (FB) wherein it has been held in paragraph no. 118 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 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.”

5. In the present case admittedly the petitioner was not employed as P.S.M. as on 01.07.2006 i.e. at the time of conversion of P.S.M. as “Panchayat Teacher”. Accordingly, the petitioner has no right to claim employment / deemed employment as P.S.M. or has right to be absorbed in service as “Panchayat



Teacher” by operation of Rule 20(iii) of the Rules, 2006.

6. In the result, this writ application having no merit is dismissed.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27-05-2024
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