

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16798 of 2019

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Ganesh Paswan son of Sri Saudagar Paswan resident of Village Kamtaul, Police  
Station- Kamtaul, District Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education,  
Government of Bihar, New Secretariat, Bailey Road, Patna.
2. The Director, Primary Education, Government of Bihar, New Secretariat, Patna.
3. The District Education Officer, District Darbhanga.
4. The District Programme Officer, Darbhanga.
5. The Block Education Officer, Jale, District- Darbhanga.
6. The Panchayat Secretary, Kamtaul, Police Station Kamtaul, District- Darbhanga.
7. Ravi Kumar Bharti Son of Sri Anil Kumar Paswan resident of Village- Bhawanipur,  
Police Station- Singhwara, District- Darbhanga.

... .. Respondent/s

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**Issue in consideration** : was there any infirmity in the orders passed by the Appellate  
Authorities viz. District Teachers Employment Appellate Authority Darbhanga and State  
Appellate Authority , Education Department regarding termination of candidate in  
appointment on the post of Panchayat Teacher under schedule caste male category in Gram  
Panchayat

**Appointment on the post of Panchayat Teacher under Schedule Caste Male category  
in Gram Panchayat -Application invited – merit list published – counselling held –  
appointment letter issued – Bonafide candidate – counselling was fixed on other date**

**by the Government but was arbitrarily put on some other date -Panchayat Teacher – possessed the required qualification – termination – Application for quashing of order passed by the State Appellate Authority in appeal to the order of District Teachers Employment Appellate Authority Darbhanga, Education Department regarding termination -hence the present writ petition for quashing the order**

**Held** – District authority in the order came with the conclusion that such preponement of the date of Counselling shall amount to denial of opportunity to other candidates and as such the process of selection by the Gram Panchayat stands vitiated .

**Bonafide candidate – possessed the required qualification – secured the highest marks - counselling held – counselling was fixed on other date by the Government but was arbitrarily put on some other date - for appointment as Panchayat Teacher – counselling was held in which petitioner appeared but other candidate did not appear**

**Held-** Panchayat Secretary fraudulently appointed the petitioner despite having lesser marks than other candidate – allegedly claiming that counselling was held on other date amount to denial of opportunity to other suitable candidates - counselling was fixed on other date – other candidate produced the relevant documents for verification before the selection committee but the Panchayat Secretary fraudulently appointed the petitioner despite having lesser marks- process of selection made by the Gram Panchayat stands vitiated .There is no infirmity with the orders passed by both Appellate Authorities and appointment on the basis of alleged counselling by the concerned Gram Panchayat is not valid . [para 5,6]

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... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr.Ashok Kumar Choudhary  
For the Respondent/s : Mr.Kameshwar Kumar (Gp17)

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL JUDGMENT**

**Date : 04-01-2024**

1. The petitioner has preferred the present writ application for quashing of the order dated 20.08.2018 passed by learned State Appellate Authority, Education Department, Bihar, Patna in Appeal Case No. 427 of 2017 by which the order dated 01.02.2011 passed by District Teachers Employment Appellate Authority, Darbhanga (hereinafter referred to as the “District Authority”) has been upheld.



2. The brief facts involved in the present writ application is that for appointment on the post of Panchayat Teacher under Schedule Caste (Male) Category in Gram Panchayat- Kamtaul, Block- Jale, Darbhanga applications were invited from the candidates in which the petitioner as well as private respondent no. 7 also applied.

3. The provisional merit list was published by the Selection Committee on 24.12.2008 in which petitioner having 68.44 % marks figured at serial no. 5 whereas the private respondent no. 7 / Ravi Kumar Bharti having 76.55 % marks was placed at serial no. 2. Counselling was held on 18-02-2009 in which the petitioner appeared but private respondent did not appear. Accordingly, vide letter no. 35 dated 14-08-2010 appointment letter was issued to the petitioner.

4. Learned counsel for the petitioner submits that the petitioner was a *bona fide* candidate and possessed the required qualification for appointment on the post of Panchayat Teacher. The counselling was held on 18.02.2009 in which the petitioner along with other candidates participated and the petitioner having secured the highest marks amongst the candidates, who participated, was duly appointed vide letter no. 35 dated 14-08-2010. The petitioner joined on the post pursuant to his



appointment and continued as a Panchayat Teacher till his termination dated 29.03.2011. The petitioner has been terminated pursuant to the order passed by the District Authority dated 01.02.2011. He further argued that the learned State Appellate Authority has failed to consider the fact that the private respondent no. 7 chose not to appear in counselling and now he is engaged in service in another school hence he is no more contesting the appointment of the petitioner. The petitioner has been allowed to suffer for no fault on his part. Further, private respondent has no case that he had no information about the commencement of counselling on 18.02.2009.

5. On the other hand, learned counsel for the State argued that counselling was fixed by the Government to be held on 28.02.2009 whereas in the present case counselling was arbitrarily held on 18.02.2009 wherein only four candidates were shown to have appeared. From the record it is evident that the private respondent no. 7 was marked absent. The District Authority in its order has come to the conclusion that such preponement of the date of counselling shall amount to denial of opportunity to other candidates. Therefore the process of selection made by the Gram Panchayat stands vitiated.

6. I have heard learned counsel for the parties and have



gone through materials available on record including the order passed by District Authority and State Appellate Authority. The private respondent no. 7 having secured 76.55 % marks and placed at serial no. 2 in the merit panel, filed an objection before the learned District Authority against the appointment process. The contention of the private respondent no. 7 before the District Authority was that he participated in the counselling on the date fixed by the Government i.e. on 28.02.2009 and produced the relevant documents for verification before the Selection Committee but the Panchayat Secretary fraudulently appointed the petitioner despite having lesser marks than him allegedly claiming that counselling was held on 18.02.2009.

7. I find that the District Authority has come to conclusion that as per the order of the Department of the State Government the date of counselling was fixed on 28.02.2009 in all the Gram Panchayats but in the present case counselling was held on 18.02.2009 as such preponement of the date of counselling shall amount to denial of opportunity to other suitable candidates.

8. Considering the facts as discussed hereinabove above, I am of the considered opinion that counselling held by the employment unit of the Gram Panchayat Kamtaul, Block Jale,



District -Darbhanga on 18.02.2009 and appointment made on the basis of the alleged counselling on that date is not valid and is illegal. As such, the process of selection made by the concerned Gram Panchayat, Kamtaul, Block Jale, District-Darbhanga stands vitiated. Accordingly, I do not find any infirmity in the orders passed by both the Appellate Authorities.

9. In the result, this application stands dismissed.

**(Anil Kumar Sinha, J)**

praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17-01-2024
Transmission Date	NA

