

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7813 of 2019

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1. Md. Noor Alam Son of Md. Khalilur Rahman Resident of Village-
 2. Dhamsain, P.S.-Bahera, District-Darbhanga
 3. Rani Praveen @ Rani Parvin D/o Md. Nazir and W/o Md. Parwez Resident of ward
No.-02 Brahampura Lakshmi Chauk Near Lakshmi Mandir, MIT Muzaffarpur,
District-Muzaffarpur

..... Petitioners.

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Govt. of
Bihar, Patna
3. The District Magistrate Muzaffarpur
4. The District Programme Officer (Establishment), Muzaffarpur
5. The District Education Officer, Muzaffarpur
6. The Block Development Officer, Block-Muraul, District-Muzaffarpur
7. The Block Educational and Extension Officer, Block-Muraul, District- Muzaffarpur
8. The State Appellate Authority (Education Department, Bihar) Patna through its
Member

9. The District Teacher Appellate Authority Muzaffarpur through its Member
10. The Mukhiya Gram Panchayat Raj Bishunpur Shreeram, Block-Muraul, District-Muzaffarpur
11. The Panchayat Secretary Gram Panchayat Raj Bishunpur Shreeram, Block- Muraul, District-Muzaffarpur
12. Mahboob Alam Hamidi Son of Abdul Hamid Resident of Village- Majhauriya Chandanpatti, P.S and Block-Sakra, District-Muzaffarpur

..... Respondents.

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Issue for consideration : has requisite process been followed in appointment and if the Appellate Tribunal and State Appellate Authority have rightly rejected the prayer of petitioner including whether the ground of delay taken by petitioner was valid

Sub rule (ii) of Rule 14 of Bihar State Teachers and Employee Dispute Redressal Rules , 2013 -Advertisement was published for appointment as Panchayat Teacher– appointment of all eight Panchayat Teachers – Four seats were unreserved and four were reserved for Urdu Teachers – counselling was held and merit list was prepared- appointment been cancelled —further appointment to be made of candidates as Panchayat Teacher in accordance with law - State Appellate Authority (Education Department , Bihar) Patna – District Teacher Appellate Authority Muzaffarpur - Authority cancelled the list prepared by the Panchayat and directed to prepare a fresh merit list of candidates who were

present in counselling -has requisite process been followed in appointment and if the Appellate Tribunal and State Appellate Authority have rightly rejected the prayer of petitioner

Held: It is not in dispute that the claim of the Petitioner was rejected after giving them proper opportunity of hearing at various forums . requisite process has not been followed in appointment and the Appellate Tribunal and State Appellate Authority have rightly rejected the prayer of Petitioner.

Counselling dated 28-2-2009- – District Teacher Appellate Authority Muzaffarpur cancelled the list on 02.05.2009-further direction was given by District Teacher Appellate Authority Muzaffarpur to Panchayat Employment unit to comply with its order to ensure appointment against the vacant posts – Eight post were vacant on which appointment can be made appointment made on all the eight posts in the Gram Panchayat -Panchayat Employment unit prepared a list as per order dated 12.01.2016 of District Teacher Appellate Authority Muzaffarpur-appointment made- consequently appointment made on all the eight posts declared null and void on application of one of the Respondents to District Teacher Appellate Authority Muzaffarpur -whether the ground of delay taken by Petitioner was valid

Held:As regards the Petitioner plea regarding delay is concerned the ground is not valid as the Appellate Tribunal vide its order has already given direction to the Panchayat Employment Committee for preparing a merit list of candidates ,further it appears from the sequence of event that Petitioner and other affected Candidates approached before the appropriate forum time to time and challenged the order of one forum before the other , hence the ground of delay for the Petitioner is not a valid ground . [Para 10]

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- 8. The State Appellate Authority (Education Department, Bihar) Patna through its Member
- 9. The District Teacher Appellate Authority Muzaffarpur through its Member
- 10. The Mukhiya Gram Panchayat Raj Bishunpur Shreeram, Block-Muraul, District-Muzaffarpur
- 11. The Panchayat Secretary Gram Panchayat Raj Bishunpur Shreeram, Block-Muraul, District-Muzaffarpur
- 12. Mahboob Alam Hamidi Son of Abdul Hamid Resident of Village-Majhauilya Chandanpatti, P.S and Block-Sakra, District-Muzaffarpur

... .. Respondents.

Appearance :

For the Petitioner/s : Ms. Shilpi Keshari, Advocate
For the Respondent/s : Mr. Madanjeet Kumar, GP-20

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 21-02-2024

Heard learned counsel for the petitioner and learned counsel
for the State.

A. For issuance of an appropriate writ order or
direction setting aside / quashing the order dated



15-01-2019 (Annexure-10) passed in Appeal No-657/2008 by the State Appellate Authority (Education Department, Bihar) Patna whereby appeal filed by the petitioners against the order dated 15-07-2017 passed in Objection Case No-12/2016 by the District Teacher Appellate Authority Muzaffarpur has been dismissed.

B. For issuance of an appropriate writ order or direction setting aside / quashing the order dated 15-07-2017 (Annexure-8) passed in Objection Case No- 12/2016 by the District Teacher Appellate Authority Muzaffarpur by the District Teacher Appellate Authority Muzaffarpur, whereby appointment of all eight Panchayat teachers (4 general and 4 urdu teachers) including the present petitioners as Panchayat teachers have been cancelled and authorities have been directed to make fresh appointment by informing all the candidates through registered post who were present in counselling dated 28-02-2009 and thereafter make appointment of candidates as Panchayat Teacher in accordance with law.

C. For issuance of an appropriate writ order or direction directing the respondents not to interfere in the peaceful functioning of the petitioners as Panchayat Teachers in their respective schools and if they are removed during pendency of the present writ application then state authorities may be directed to reinstate them with all consequential monetary benefits.



D. For issuance of an appropriate writ order or direction directing the respondents to make payment of petitioners salary, current as well as arrears if any.

E. For any other relief or relief for which petitioner is entitled in the opinion of this Hon'ble High Court.

2. It is the case of the petitioner that in the year 2008, an advertisement was published for appointment/engagement as Panchayat Teacher in the Gram Panchayat Raj Bishunpur Shreeram, Block-Muraul, District-Muzaffarpur. As per the roster, out of eight seats four were unreserved and four were reserved for Urdu Teacher. The petitioners, being applicant for Urdu seats, their candidature were considered, counselling was held and merit list was prepared in the year 2009. One Ms. Aarti Chaudhary challenged the said merit list before the District Teacher Appellate Authority, Muzaffarpur, bearing Case No. 1623/2009. After hearing the parties, the District Teacher Appellate Authority by its order date 02.05.2009 disposed the aforesaid case and cancelled the list prepared by the Panchayat and also a direction was issued to prepare a fresh merit list of candidates who were present in the counselling.

3. It is the further case of the petitioners that one Narendra Thakur also filed a case in the year 2012, bearing Case No.



36/2012 before the District Teacher Appellate Authority, Muzaffarpur in which after hearing the parties learned District Teacher Appellate Authority, Muzaffarpur by order dated 27.02.2013 disposed of the same observing that the earlier order of the District Teacher Appellate Authority, Muzaffarpur for preparing a fresh merit list and selection and employment was not complied and further it was directed to Panchayat Employment Unit, Bishunpur Shreeram to ensure employment against the vacant posts but the District Teacher Appellate Authority, Muzaffarpur also found the case of said Narendra Thakur as time barred.

4. Being aggrieved with the aforesaid order dated 27.02.2013, the said Narendra Thakur filed a writ application, bearing C.W.J.C. No. 10163 of 2013 before this Court in which after hearing the parties, vide order dated 25.09.2014, the Writ application was disposed of with a direction to file an application before the District Teacher Appellate Authority, Muzaffarpur in terms of sub-rule(ii) of Rule 14 of Bihar State School Teachers and Employees Dispute Redressal Rules, 2013. Pursuant to the order passed by this Court, the said Narendra Thakur filed a fresh case bearing Case No. 54 of 2014 before the District Teacher Appellate Authority, Muzaffarpur in which



during course of hearing District Education Officer, Muzaffarpur informed the tribunal that 8 disputed posts were still vacant against which employment can be made. The Said case was disposed of by order dated 12.01.2016 whereby a fine of Rs. 4000/- was imposed upon the concern authority.

5. It is further case of the petitioners that after the order dated 12.01.2016, Panchayat Employment Committee Bishunpur, Shreeram prepared a merit list of eight post of Panchayat teachers and after inviting objection, the said list was declared final in which petitioners were selected under Urdu category and vide Memo No. 05 dated 22.02.2016 and Memo No. 09 dated 22.02.2016 appointment letters were issued to them and they joined in their respective schools and since thereafter working to the satisfaction of all concerned.

6. It is further case of the petitioners that one Mahboob Alam Hamidi (respondent no. 12), for the first time, gave an application dated 28.03.2016, before the District Teacher Appellate Authority, Muzaffarpur, raising his grievance regarding irregularity committed and Case No. 12/2016 was instituted and tried by the Appellate Tribunal. Vide order dated 15.07.2017, passed in Objection case No. 12 of 2016, after hearing all the parties, the Appellate Tribunal held all the



appointments made on all eight posts in the Gram Panchayat Raj Bishunpur Shreeram as null and void and, consequently, cancelled the entire appointments including the present petitioners.

7. It is further case of the petitioners that against the said order dated 15.07.2017, five selected candidates filed appeal before the State Appellate Authority(Education Department, Bihar), Patna, bearing Appeal No. 164/2017, in which after hearing the parties the learned Chairperson of the State Appellate Authority (Education Department, Bihar), Patna, by his order dated 27.06.2018, disposed of the appeal holding that the case of respondent no. 12 is genuine but set aside the order so far it relates to general posts are concerned and further directed to Gram Panchayat Raj Bishunpur Shreeram, Block-Muraul, District-Muzaffarpur to proceed for appointment on Urdu posts on the basis of candidates present in counselling held on 28.02.2009. The present petitioners also challenged the aforesaid order by filing appeal bearing appeal no. 657 of 2018 before the State Appellate Authority, which was also disposed of in terms of the order dated 27.06.2018 passed in Appeal No. 164 of 2017.

8. Learned counsel for the petitioners while arguing harped



upon the fact that both the State Appellate Authority as well as the Appellate Tribunal failed to appreciate the fact that application filed by respondent no.12 was time barred as the same was not filed within the stipulated period prescribed by law.

9. On the other hand, a counter affidavit has been filed on behalf of the respondent no. 4, which is on record, in which it is, *inter alia*, submitted that the appointment of petitioners and other Teachers were made without following the requisite process and the Appellate Tribunal as well as the State Appellate Authority have rightly rejected the prayer of the petitioners and this writ application may be dismissed.

10. It is not in dispute that the claim of the petitioners was rejected after giving them proper opportunity of hearing. So far as the plea taken by learned counsel for the petitioners regarding delay is concerned, in my considered opinion, this ground is not valid inasmuch as the Appellate Tribunal vide its order dated 02.05.2009 passed in the case of Aarti Chaudhary had already given direction to the Panchayat Employment Committee for preparing a merit list of candidates, who were present in the counselling held on 28.02.2009. Thereafter, one Narendra Thakur approached before this Court by filing writ application



and thereafter the Appellate Tribunal for a direction for implementation of the order dated 02.05.2009. It appears from the sequence of events that petitioners and other affected candidates approached before the appropriate forum time to time and challenged the order of one forum before the another forum. Hence, in my considered view, the ground of delay taken by learned counsel for the petitioners is not a valid ground.

11. In view of the facts and circumstances as narrated in the foregoing paragraphs, this writ petition merits no consideration and is dismissed accordingly.

(Anjani Kumar Sharan, J.)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	15.02.2024
Uploading Date	21.02.2024
Transmission Date	NA

