

SC-1  
11/8/13

IN THE HIGH COURT OF JUDICATURE AT PATNA  
(Civil Writ Jurisdiction case)  
C.W.J.C. NO. OF 2013

Kiran Kumari and ors ..... Petitioner  
Versus  
The State of Bihar ..... Respondents

Sub:- Selection (Non Gazetted)

I N D E X

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**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**(CIVIL WRIT JURISDICTION)**

**CWJC No.- \_\_\_\_\_ of 2013**

**Kiran Kumari and others**

**\_\_\_Petitioners**

**Versus**

**The State of Bihar and others**

**\_\_\_RESPONDENTS**

**SYNOPSIS**

**RELIEF PRAYED**

For issuance of a writ/order or direction, in the nature of writ of Certiorari or other appropriate writ/order or direction for quashing the order dated 13.03.2013 passed by Respondent no.5 in Appeal Case No.132/2011.

Further pray for a consequential writ/order or direction, in the nature of a writ of mandamus or any other appropriate writ/order of direction, commanding the Respondents to accept the joining of the petitioners pursuant to their appointment as Panchayat Teachers, and to grant all

consequential benefits thereof such as pay, etc. in accordance with law.

**Date and events :-**

| <b><u>Dates</u></b> | <b><u>Events</u></b>  |
|---------------------|---|
| <b>2008</b>         | <ul style="list-style-type: none"> <li>- Advertisement for appointment of Panchayat Teacher of Gram Panchayat Israin Khurd, Kumar Khand, Madhepura issued notifying Seven post of Panchayat teachers in different subject out of which 3 were in general category and 4 in urdu. In the general category one post each was earmarked for S.T. female, unreserved female and Backward Cast under the Urdu Quata one Post each was ear marked for Schedule Cast female, Unreserved (Female), EBC and unreserved.</li> <li>- Petitioners being eligible applied under their respective Quata Petitioner no.1 applied under Schedule tribe (Female), Petitioner No.2 under E B C of Urdu Quata Petitioner No.3 in unreserved category of Urdu Quata.</li> </ul> |
| <b>28.11.2008</b>   | <ul style="list-style-type: none"> <li>- Process of selection was under taken and meeting of appointment committee held under the chairmanship of Mukhiya, where a decision was taken to prepare the merit list quata wise as per vacancy.</li> <li>- In terms of decision merit list was prepared.</li> </ul>  |
| <b>01.12.2008</b>   | <ul style="list-style-type: none"> <li>- Meeting of appointment committee held and merit list approved with a direction to publish the same inviting objection.</li> <li>- Accordingly merit list was published inviting objection.</li> </ul>  |

- 18.02.2009** - As no objections were received the committee accepted the merit list and directed for publication of final merit penal and issuance of letter for counseling fixing 28.02.2009 as a date of counseling.
- 23.02.2009** - In view of directions issued by the State Government the date of counseling was extended to 29.12.2010.
- 29.12.2010** - Cancellation held and documents verified by the selection committee and letter of appointment issued to the petitioners.
- Petitioner as directed submitted their acceptance and an affidavit.
- 30.12.2010** - Petitioners submitted their joining were in their respective school but were not allowed to join by the Headmaster concern on the ground that Block Education Officer had orally instructed not to accept any joining till further order from his office as report on final verification of documents were still awaited.
- 03.01.2011 to June 2011** - Petitioner reputedly requested for acceptance of their joining in view of their appointment, verification of their documents by the selection committee at the time of their counseling and submission of necessary affidavit by the petitioners. However, petitioner not allowed to join in view of oral orders of Block Education Officer.
- 21.07.2011** - Petitioner no.-1 submitted her complaint to the District Magistrate who referred the matter to the Appellate Tribunal for an Enquiry into the non

joining of selected candidates.

- 24.08.2011** - Misc. Case No.- 132 / 2011 registered by the District appointment appellate authority.
- 29.09.2011** - As no information or notice of the said case was given to petitioner no.1 she once again represented before the District Magistrate and was informed about pendency of appeal no.- 132/2011.
- 14.10.2011** - Petitioner No.2 and 3 coming to learn appeal case no.132/2011 also submitted that respective claims before the appellant authority for consideration.
- 15.11.2011** - Petitioner no.1 appeared before appellate authority and notices issued to Panchayat Secretary to appear with records.
- 14.03.2012** - Panchayat Secretary appeared with records and submitted that despite submission of information to Block Education Officer he was not accepting the reported of Panchayat Secretary. This time notices were issued to Block Education Officer.
- 30.05.2012** - Block Education Officer admitted having received information from Panchayat Secretary but informed the Tribunal that the information submitted by the Panchayat Secretary was incomplete and despite directions, the Panchayat Secretary had not submitted the complete report.
- 28.07.2012** - As there was overwriting in the report of Block Education Officer fresh report was call for.
- 04.09.2012** - Block Education Officer submitted a fresh report

reiterating his earlier report.

- 19.12.2012** - Matter was heard and Panchayat Secretary submitted a written report giving details and on 31.12.2012, notices were issued to the concern Headmaster.
- 10.01.2013** - As regarded petitioner no.1 Headmaster submitted his written reply disputing her joining on 30.12.2010 but admitted that she had reported on 24.06.2011 and was directed to contact the Block Education Officer.
- 11.01.2013** - As regard petitioner no.3 & 4 it was admitted that the joining of P/3 had not been accepted on oral orders of Block Education Officer.
- 16.01.2013**
- 13.03.2013** - Matter was heard and was dismissed holding that as the documents had not been verified before appointment which was evident from the letter of appointment itself therefore the appointment itself illegal.

**Hence this writ petition.**

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GOVT. OF BIHAR  
 REGISTRATION, EXCISE & PROHIBITION DEPT.  
 PATNA SCORE PATNA  
**COURT FEE**  
 Authorization No. 2676



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बिहार  
 JUDICIAL  
 31.7.2013  
 BIHAR

0621 6259052

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
 (CIVIL WRIT JURISDICTION)**

**C.W.J.C No. \_\_\_\_\_ OF 2013**

In the matter of an application under Article  
 226 of the Constitution of India

And

In the matter of

1. Kiran Kumari, daughter of darbari Marandi, resident of Village – Haripur, Tinkonwa, P.O -- Haripur Kala, P.S – Murliganj, District – Madhepura.
2. Abdus Samad, son of Md. Noorullah, resident of Village – Komalpur, P.S – Sanskrit Nirmali, P.S – Balua Bazar, District – Madhepura.
3. Gohar Alam, son of Nurul hoda, resident of Village – Mandheli Bazar, P.O – Mandheli, P.S – Sankarpur, District – Madhepura.

..... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Bihar, Patna.
2. The Principal Secretary, Human Resources development Department, Government of Bihar, New Secretariat, Patna.
3. The District Magistrate, Madhepura.

4. The District Superintendent of Education, Madhepura.
5. The District Teachers Appointment Appellate Tribunal, Madhepura.
6. The Block Education Officer, Kumar Khand Block, Madhepura.
7. The Secretary, Gram Panchayat Israin Khurd, Kumar Khand, Madhepura.
8. The Head Master, Primary School, Tapra tola, Gram Panchayat – Israin Khurd, Kumar Khand, Madhepura.
9. The Head Master, Primary School, Israin Khurd, Gram Panchayat – Israin Khurd, Kumar Khand, Madhepura.
10. The Head Master, Primary School, Yadav Patti, Gram Panchayat – Israin Khurd, Kumar Khand, Madhepura.

..... Respondents

To

The Hon'ble Ms. Rekha M.Doshit, the Chief Justice of the High Court of Judicature at Patna and his companion Justices of the said Hon'ble Court.

The humble Petition on behalf of the  
Petitioners above named

Most Respectfully Showeth :

1. That this is an application praying for issuance of a Writ/ Order or direction, in the nature of a writ of Certiorari or any other appropriate writ/ order or direction, for quashing the



Order dated 13.3.2013 passed by Respondent No.5 in Appeal Case No.132 of 2011; The Petitioners further pray for a consequential Writ/ Order or Direction, in the nature of a Writ of Mandamus or any other appropriate writ/order or direction, commanding the Respondents to accept the joining of Petitioners pursuant to their appointment as Panchayat Teachers, and to grant all consequential benefits thereof such as pay, etc in accordance with law.

2. That the main questions, arising in the present writ petition for the kind consideration of this Hon'ble Court, are :
  - A) For that the impugned order as well as action of Respondent Authorities is illegal, arbitrary, in colorable exercise of power and also in violation of Article 14 and 16 Constitution of India;
  - B) For that the impugned order as well as action of Respondents amounts to defeating the very purpose and objective of the appointments made under the 2008 Rules;
  - C) For that the impugned order is illegal, perverse and has been passed without application of judicious mind, contrary to the records;

- D) For that impugned order, holding the appointment as illegal, is illegal, arbitrary, perverse, contrary to records and wholly without jurisdiction;
- E) For that the impugned order is based on mere conjecture and surmises of Respondent No.5 and is therefore, illegal, arbitrary and smacks of prejudice;
- F) For that the Petitioners, having been validly appointed, through a process of merit selection and there having been no objection and/ or complaint to such appointment, have a right of having their joining accepted;
- G) For that the denial of joining at the oral dictates of Respondent No.6, is illegal, arbitrary, colorable exercise of power and smacks of malafide of the Respondent authorities;
- H) For that the impugned action as well as the order is otherwise bad in fact and in law;
3. That the Petitioners are citizen of India and has been appointed as Panchayat Teachers in different Primary Schools under the Gram Panchayat Israin Khurd and as such are entitled to the relief prayed for in the present writ petition.

4. That in 2008, pursuant to second phase of appointment of panchayat teachers, process of selection and appointment were initiated by issuance of advertisements for different Primary Schools all over the State of Bihar. It is stated that the Advertisement with respect to 7 posts of Primary Teachers in different Primary Schools of Gram Panchayat Israin Khurd was also issued out of which 4 posts were earmarked for Urdu (one each for Scheduled Caste (Female), Unreserved (Female), Extremely Backward Class and Unreserved). The other 3 posts were earmarked for Scheduled Tribe (Female), Unreserved (Female) and Backward Class.
5. That the Petitioner, being eligible and qualified for the said posts, submitted their respective applications for consideration of their cases in their respective categories. It is stated that Petitioner No.1 submitted her application under the Scheduled Tribe (Female) category, Petitioner No.2 submitted his claim under the Extremely Backward Class of Urdu and Petitioner No.3 applied under the Unreserved category of Urdu.
6. That after receipt of applications, an appointment committee, headed by the Mukhiya of the Gram Panchayat, was duly constituted which took a decision to have a separate merit

list for each vacancy i.e quota and category wise. It is stated that the applications of all candidates were duly examined and a merit list was accordingly prepared, as directed. The said merit list was approved by the appointment committee in its meeting dated 1.12.2008 and the approved merit list was published inviting objections to the same. As no objections were received against the said merit list, the merit list was accepted by the said committee and a direction was issued on 18.2.2009 to publish the final merit Panel and issue call letters to the empanelled candidates fixing 28.2.2009 as the date of counseling. In terms of the aforesaid decision, the final Merit Panel was published and call letters were issued to the empanelled candidates fixing 28.2.2009 as the date of counseling. However, before the counseling could be held and pursuant to the general orders issued by the State Government through the Respondent department, the date of counseling was extended to 29.12.2010.

7. That the Petitioners and other empanelled candidates, participated in the counseling on 29.12.2010 along with all their original documents for verification. It is stated that the documents and other details of the Petitioners and others were verified by the appointment committee on 29.12.2010 itself and

being prima-facie satisfied about the same, approval was granted for issuance of appointment letters to the selected candidates, strictly in accordance with the final Merit Panel. It is stated that accordingly, Letter of Appointment was issued separately to the Petitioners on 29.12.2010 itself directing them to submit the required undertaking and join their respective place of posting. It is stated that Petitioner No.1 was appointed as Panchayat Teacher, Primary School, Tapra Tola under the Scheduled Tribe (Female) quota, Petitioner No.2 was appointed as Panchayat Teacher, Middle School, Israin Khurd under the Extremely Backward Class of Urdu quota and Petitioner No.3 was appointed as Panchayat Teacher, Urdu Primary School, Yaduapatti under the Unreserved Category of Urdu quota. As similar appointment letters were issued to all the Petitioners, the Petitioners crave leave of this Hon'ble Court to annex a copy of the Appointment Letter issued in favor of Petitioner No. 1 as a sample copy.

A true photocopy of Letter of Appointment of  
Petitioner No. 1 is annexed as Annexure 1.

8. That in compliance of the Letter of Appointments, all the Petitioners submitted their respective undertakings in the

manner prescribed and proceeded to join their respective place of posting. It is stated that all the Petitioners submitted their joining in their respective schools on 30.12.2009. However, to their surprise and shock, the respective Head Masters (Respondent Nos.8 to 10), refused to accept the joining of petitioners on the ground that Respondent No.6 (the Block Education Officer, Kumar Khand), had orally directed not to accept the joining till further orders from his office as the report on final verification was still awaited. The Petitioners crave leave of this Hon'ble court to annex a copy of the joining report of Petitioner No. 1 for perusal of this Hon'ble Court.

A true photocopy of joining report of Petitioner No. 1 is annexed herewith as Annexure 2.

9. That it is respectfully submitted that in between January, 2011 to June, 2011, the Petitioners, in the found hope that their joining would be accepted, kept on requesting their respective Head Masters i.e Respondent No.8 to 10, to accept their joining and allow them to discharge their respective duties as Panchayat Teachers. However, the respective Head Masters repeatedly refused to accept their joining as no further orders

had been communicated to them from the office of Respondent No.6.

10. That Petitioner No.1, thereafter, filed her detailed representation before Respondent No.3 (the District Magistrate), on 21.7.2011, inviting his attention to the illegal denial of her joining pursuant to her appointment as Panchayat Teacher. The Respondent No.3, in view of the aforesaid, referred the said complaint for enquiry to the District Teachers Appointment Appellate Tribunal. However, as Petitioner No.1 was not aware of such reference and as her grievance were not being redressed, Petitioner No.1 once again filed her detailed representation before Respondent No.3 on 29.9.2011. However, this time, she also came to learn about the reference of the matter for enquiry to Respondent No.5 on her previous complaint itself.
11. That in the meantime, upon reference of the complaint of Petitioner No.1 by the District Magistrate, the District Teachers Appointment Appellate Tribunal (herein after referred to as the "Tribunal"), registered the same as Misc. Case No.132 of 2011 and proceeded with the same. It is stated that the Petitioner No.1, having come to learn of the same, appeared before the

Tribunal on 15.11.2011 and reiterated her complaint. It is stated that as none of the other selected candidates were being allowed to join their respective place of appointments, Petitioner No.2 and 3 also submitted their complaint to the said Tribunal on 14.10.2011.

12. That the aforesaid complaints of the Petitioners were considered and notices were issued to Respondent No.7 to appear before Respondent No.5 with all related records. Respondent No.7, as directed, appeared before Respondent No.5 on 14.3.2012 along with all the records. It is stated that Respondent No.7 also filed a detailed written statement on 19.12.2012, specifically stating therein that the Petitioners had been appointed in accordance with law and their documents had been verified during counseling. It was also stated therein that all the details such as final Merit Panel, Counseling Register and the list of appointed candidates, had been submitted before Respondent No.6 but he refused to receive the same on the pretext that the same was incomplete. It was further stated therein that despite repeated request, Respondent No.6 had not specified which information was incomplete or what further information was required from Respondent No.7. It was also stated therein that only due to oral orders of



Respondent No.6, the joining of Petitioners had not been accepted by the respective Head Masters.

A true photocopy of the written statement dated 19.12.2012 is annexed as Annexure 3.

13. That Respondent No.6, on notice, appeared and submitted his report on 30.5.2012 and again on 4.9.2012. Although it was admitted by Respondent No.6 that Respondent No.7 had furnished the information regarding appointment of Petitioner. However, apparently to cover-up his lapses, Respondent No.6 further stated that Respondent No.7, despite directions, had not submitted the complete information.

A true photocopy of Report dated 4.9.2012 is annexed as Annexure 4.

14. That thereafter, notices were issued to the respective Head Masters i.e Respondent No.8 to 10 herein on 31.12.2012 who also appeared in the said proceeding. It is stated that Respondent No.8, through Letter dated 10.1.2013, informed Respondent No.5 that Petitioner No.1 had not submitted her joining within time and therefore, her joining could not be accepted. It was also admitted therein that joining of none of the selected candidates had been accepted in view of oral orders of

Respondent No.6. It is stated that likewise, Respondent No.9 and 10, through their Letter dated 11.1.2013 and 16.1.2013 respectively, informed Respondent No.5 that the joining of Petitioner No.2 and 3 had not been accepted only on account of oral orders of Respondent No.6.

A true photocopy of Letter dated 10.1.2013, 11.1.2013 and 16.1.2013 are annexed as Annexure 5 (series).

15. That the Petitioners crave leave of this Hon'ble court to state that from the aforesaid, it is manifest that although the Petitioners had been appointed as Panchayat Teachers on the basis of their merit selection, the said appointment was sought to be prejudiced at the oral dictates of Respondent No.6. It is respectfully submitted that under the Rules governing such appointments, Respondent No.6 is only an authority to supervise the process of selection and does not have any authority or jurisdiction in the matter of joining of an appointed candidate. However, only in case a complaint is placed before Respondent No.6 or in case any of the documents/ details submitted by an appointed candidate is found to be incorrect/ false/ wrong, Respondent No.6 has jurisdiction to interfere in

the appointments of such candidates. It is stated that from the facts admitted by the Respondents, through their communication to the Appellate Tribunal, it stands admitted that no complaint was pending against the appointment of Petitioners nor any adverse report regarding the authenticity or correctness of the documents/ details submitted by Petitioner was available before Respondent No.6 justifying his interference in the matter. The action of Respondent No.8 to 10 as well as Respondent No.6, in not allowing the Petitioners to join, was wholly without jurisdiction, illegal, colorable exercise of power and a result of prejudice and bias of the authority concerned.

16. That Respondent No.5, without considering the matter and only on his conjecture and surmises, came to a perverse finding by misinterpreting the letter of appointment that the said appointment of petitioners had been made without verification of their documents and was therefore illegal. It is stated that accordingly, Respondent No.5 rejected the claim of Petitioners by his order dated 13.3.2013 passed in Case No.132 of 2011. It is respectfully stated that from a bare perusal of the impugned order dated 13.3.2013, it is manifest that Respondent No.5 ignored and did not consider the records produced by the Panchayat Secretary or the statements made by the Panchayat

Secretary who was one of the members of selection committee. Further, Respondent No.5 failed to appreciate that the Letter of appointment, on the face of it, specifically recorded that the said appointment was being made after verification of the documents and would be terminated if any of the documents/ information were subsequently found to be incorrect/ wrong.

A true photocopy of Order dated 13.3.2013 passed in Case No.132 of 2011 is annexed as Annexure 6.

17. That from the facts and circumstances detailed herein above, it is manifest that although the appointment of petitioners, through a process of merit selection, was accepted by all the parties including Respondent No.5, the joining of Petitioners was sought to be prejudiced only at the oral dictates of Respondent No.6 who did not have any authority in the matter of joining of a selected candidate. Further, Respondent No.5, while considering the matter, completely ignored and overlooked the records produced before him by Respondent No.7. It is stated that admittedly, there was no complaint or objection ever raised with respect to the appointment of petitioner and therefore, the question of validity or otherwise of

the appointment itself, was never under dispute or consideration. Respondent No.5, by considering the said aspect only, exceeded his brief and acted beyond his jurisdiction by holding the appointment itself to be illegal. The Petitioners have reasons to believe that the same has been done at the behest of vested interest and to prejudice and defeat the appointment of the Petitioners in a circuitous manner. It is stated that till date, all the aforesaid posts are lying vacant and no other person has been allowed to join, thereby prejudicing not only the career of the Petitioners but also the studies of the students of the school.

18. That in view of the facts and circumstances stated herein above, more particularly the fact that the petitioners had been validly appointed through a process of merit selection and there was no objection or complaint against such appointments, the joining of Petitioners cannot be allowed to be prejudiced at the whim and dictates of Respondent authorities. The writ petition therefore, deserves to be allowed, impugned order dated 13.3.2013 passed in Case No.132 of 2011 needs to be set aside and the Respondents are required to be directed to accept the joining of Petitioners as the said posts are lying vacant till date.

19. That the petitioners have no other alternative and equally efficacious remedy left than to move before this Hon'ble Court under its Writ Jurisdiction.

20. That the Petitioners have not moved earlier before this Hon'ble Court under its Writ Jurisdiction, for the relief prayed for in the present Writ Petition and has come for the first time, without any undue delay or latches on his part.

It is therefore most respectfully prayed that your lordships may most graciously be pleased to call upon the respondents to show cause as to why the relief prayed for in Paragraph no.1 of the Writ Petition, be not granted to the Petitioners and on cause, if any, being shown and after hearing the Parties, be pleased to make the Rule absolute.

AND/ OR

Pass such other Order or orders, direction or directions, as your lordships may deem fit and proper in the facts and circumstances of the case.

And for this the Petitioners shall ever pray.

A F F I D A V I T

I, Kiran Kumari aged about \_\_\_ yrs, D/o- Darbari Marandi, R/o- Village- Haripur tinkonwa, P.O.- Haripurkala, P.S.- Murliganj, District- Madhepura do hereby solemnly affirm and say as follows:-

1. That I am petitioner no.1 in this case and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this petition have been read over and explained to me in Hindi and which I have fully understood the same.
3. That the statements made in paragraph no. 3, 5, 6 (Part), 7 to 9, 10 (Part) 11 and 20 are true to my knowledge and those made in paragraphs no. 4, 6 (Part), 10 (Part) 12 to 16 and 19, are true to my information derived from the records and the rests are by way of submissions before this Hon'ble Court.
4. That the annexures are true/photocopies of their respective originals.

## कार्यालय, ग्राम पंचायत इसराईन खुर्द, कुमारखण्ड

ज्ञापांक.016...../दिनांक.....29.11.2010.....

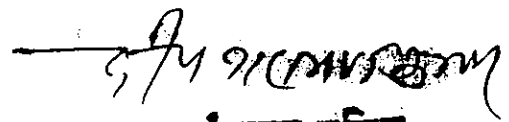
सेवा में,

श्री/सुश्री/श्रीमति (श्री.वि.) श्री.पति... पिता/पति... दे.रा.पति... पति...

प्रसन्नता पूर्वक सूचित करना है कि ग्राम पंचायत इसराईन खुर्द अन्तर्गत प्रा.स.स. विद्यालय में... शिक्षक के रूप में नियोजन करने हेतु आपका चयन किया गया है।

आपका नियोजन बिहार पंचायत प्रारम्भिक शिक्षक (नियोजन एवं सेवा शर्त) नियमावली 2006 तथा तत्सम्बन्धी संशोधित नियमावली 2008 के अनुसार होगा।

अगर आपको नियोजन स्वीकार हो तो कृपया विहित प्रपत्र में सहमति अंकित करते हुए अधोहस्ताक्षरी के कार्यालय में सुपुर्द करें तथा उपरोक्त विद्यालय में अपना योगदान दें। प्रपत्र प्राप्त के एक सप्ताह के अन्दर पदस्थापित विद्यालय में अपना योगदान देना सुनिश्चित करें। आपके द्वारा नियोजन इकाई को समर्पित किए गये प्रमाण-पत्र सत्यापन के क्रम में अवैध पाए जाने पर आपका नियोजन रद्द करते हुए उचित कानूनी कारवाई के लिए विभाग स्वतंत्र होगा।



पंचायत सचिव

ग्राम इसराईन खुर्द

कुमारखण्ड (मधेपुरा)

पंचायत नियोजन इकाई

ग्राम पंचायत- इसराईन खुर्द

प्रखण्ड- कुमारखण्ड

जिला- मधेपुरा



सूचना में,

श्रीमान् पुद्यानाद्यापक मद्यपय,  
प्राथमिक विद्यालय टपडा टोला।

विषय - योगदान के सम्बन्ध में,

महाशय,

सविनय निवेदन है कि ग्राम

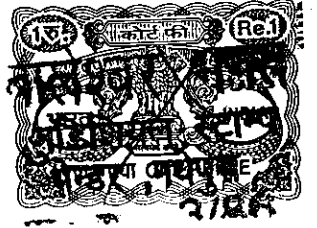
पंचायत ईठ रुर्द के पत्रांक-16 दिनांक  
29/12/2010 के आलोक में मुझे पंचायत  
शिपिका के पद पर नियोजन की गई  
है।

अतः श्रीमान् से प्रार्थना

है कि मुझे दिनांक 30-12-2010 के  
10 बजे पूर्वार्द्ध में योगदान लेने की सेवा  
की जाय।

आपका विश्वास भाजिका  
नाम - किरण कुमारी  
प्रा. वि. टपडा टोला  
दिनांक 30/12/2010

# Annexure-3



फांक- B.1 दिनांक 19/01/11

प्रेषक :-  
पंचायत सचिव,  
ग्राम पंचायत, इतराईन सुर्द  
प्रखण्ड कुमारखण्ड मधेपुरा

20

सेवा में,

श्रीमान सदस्य,  
जिला शिक्षक नियोजन,  
अधोलीय प्राधिकार, मधेपुरा ।

विषय :- अपील संख्या- 132/11 में स्पष्ट जवाब दाखिल करने के संबंध में ।  
महाशय,

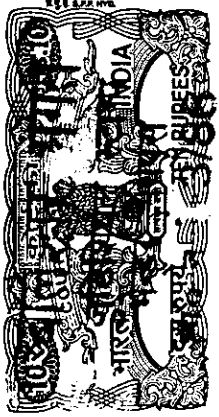
उपरोक्त विषय के संबंध में अंकित करना है कि शिक्षक  
नियोजन 2008 में ग्राम पंचायत इतराईन सुर्द को कुल 07 (सात) पद आवंटित  
किया गया था । जिसका कोटिवार खोरा निम्न प्रकार है :-

एम.सी. उर्दू-01, यूआरएफ उर्दू-01, डीओसी 0 उर्दू-01, यूआर उर्दू-01  
एसओ 0एफ-01 यूआरएफ सा. 0-01, एवं डीओसी 08 सा 08-01 कुल-07 पद ।

उपरोक्त रिक्ति के अनुसार अभ्यर्थियों से आवेदन प्राप्त किया  
गया एवं नियोजन समिति को देख-रेख में प्राप्त आवेदन को जांचोपरान्त  
मेधा सूची का प्रकाशन कर दिनांक- 29-02-2009 को काउन्सिलिंग हेतु  
अभ्यर्थियों को बुलावा पत्र भेजा गया था । दिनांक- 28-02-2009 को  
काउन्सिलिंग आयोजित कर अभ्यर्थियों से वैधानिक प्रमाण-पत्र प्राप्त किया  
गया एवं उपस्थित अभ्यर्थियों का नियमानुसार वरीयता के अनुसार चयन सूची  
प्रकाशित कर नियोजन प्रक्रिया आरम्भ की गई ।

ज्ञात हो कि अभ्यर्थियों को दिनांक 14-08-2010 तक  
नियोजन पत्र दे देना था, लेकिन विधायित्व विधि तक कुछ तकनीक कारण  
से नियोजन कार्य पूरा नहीं हो सका एवं विभागीय निर्देशानुसार नियोजन  
कार्य तत्काल अगले आदेश को प्रकाशा में स्थगित कर दिया गया एवं  
निर्देशानुसार अभ्यर्थियों से प्राप्त प्रमाण पत्र सत्यापन हेतु प्रखण्ड कोषांग  
को उपलब्ध करा दिया गया था ।

पुनः मानव संसाधन विकास विभाग के प्रेष विज्ञापित एवं जिला  
एवं प्रखंड से प्राप्त आदेश के अनुसार पुनः दिनांक- 29-12-10 को पूर्व के  
मेधा सूची को सदस्यों से अनुमोदन कराकर काउन्सिलिंग में उपस्थित अभ्यर्थियों  
में से उच्च मेधा अंक प्राप्त कुल-05 अभ्यर्थियों का नियोजन हेतु चयन किया गया ।





पत्रांक 252

प्रेषण - प्रखण्ड शिक्षा पदाधिकारी

सेवा क्र. सहाय  
अला शिक्षण निजीत  
अपीलीय प्राधिकार मध्येपुरा

कुमारकुमुदिनांत 4.9.12

विषय - अपील सं० 132111 में अवधीय पत्रांक 252  
8.8.12 में प्रतिवेदन अर्थात् साक्षरिगा वी सर्वेक्षण :-

पदाध्याप उपर्युक्त विषय के संबंध में अख्यारसासरी  
कार्यालय पत्रांक 372 दिनांक 30.8.12 में अवधीय  
द्वारा अर्थात् साक्षरिगा के संबंध में लिखा गया है

तुनः स्पष्ट प्रतिवेदन इस प्रकार  
इ- गांधीपेठ सचिव द्वारा निघोजत, अनेधित प्रतिवेदन  
देने आया वो औ अधुवा था उन्हें निर्देशित विधा  
जाया की पूर्ण प्रतिवेदन तुनः लेका आवे। औ  
अभी तक प्रतिवेदन अख्यारसासरी की उपलब्ध  
नही थापा।

अतः प्रतिवेदन समपिते।

विश्वनाथराज  
4.9.12  
प्रखण्ड शिक्षा पदाधिकारी

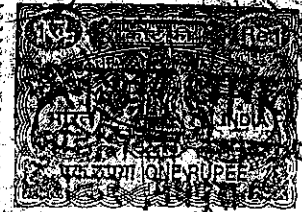
25-9-12

2/9/12

2/9/12

कार्यालय - प्राथमिक विद्यालय उपजायेला

पत्रांक - 15 / दिनांक - 10/01/2013



पेचक - प्रधानाध्यापक

प्रा. वि. उपजायेला कुमाखड (मवेपुर)

प्रेषित - खास

जिला शिक्षक कार्यालय

अपीलीय प्राधिकार, मवेपुर

विषय - अपील संख्या 132/11 आवेक कि. कुमारी के लॉक में

महाशय,

उपर्युक्त विषय में मुझे आपके कार्यालय पत्रांक -

427 दिनांक 12.09.2011 के द्वारा मुझसे जवाब मांगा गया

था जिसका जवाब आपके पत्रांक - 15 दिनांक 27.9.2011 को

आपके माध्यम से जे. विद्यालय प्राथमिकी प्रतिनिधि संलग्न

है। इस संबंध में प्रवर्द्ध शिक्षा प्रदायिका कुमाखड की भी

में अपना रिपोर्ट पत्रांक 07 दिनांक 26.07.11 को भेज चुका

है (प्रतिनिधि संलग्न) पुनः आपके कार्यालय के पत्रांक - 402

दिनांक 31.12.12 को भेजा गया जो कि मुझे दिनांक 09-01-2013

को प्राप्त हुआ। जिसमें पुनः जवाब मांगा गया है।

उपर्युक्त विषय के संदर्भ में विशेष रूप से यह

कहा है कि आवेक कि. कुमारी द्वारा जनता इस्कार

में 21/07/2011 द्वारा लगाया गया आरोप सशस्त्र सुन और

मिश्रण है। आवेक द्वारा कथित रूप से लगाया आरोप

दिनांक 30.12.2010 को भोगवन के लिए अधिकांश

आरोप और भेजे उन्हें जवाब काम होने की वजह से लौटा

दिया, वे बुनियाद है। मैं पास प्रत्येक दिन स्कूल के निरीक्षण

कार्य ही करते हैं और भोगवन सेना भेरा करतव्य है। भोगवन

सेने की प्रक्रिया में कोई विशेष समझ भी नहीं लगता है जो

में उन्हें मना करता।

आगे आवेक ने अपने आरोप में

कहा है कि दिनांक 03.01.2011 को वह स्कूल आधी भी लॉक



निर्वाचित सभी कार्य यह आरोप विरुद्ध जा रहा है।  
दिनांक 03.01.2011 को स्कूल में सुबह 10 बजे से सायं 5  
तक उपस्थित था और मेरी उपस्थित, शिक्षक उपस्थिति पंजी  
में लई है। इस दिन स्कूल में सभी शिक्षक उपस्थित थे।  
(उपस्थिति पंजी की प्रतिलिपि संलग्न)



आगे यह भी कहना है कि मेरे साथ  
कोचित रूप से जोगानर के लिए 07.01.2011 को मना करे  
के कारण आवेदिका प्रमुख शिक्षा पदां कुमारी के पास  
गई लेकिन वो चुनाव के कारण नहीं मिले। ऐसा संभव  
नहीं है कि कोई पदाधिकारी 6 महीने तक नहीं मिले।



आवेदिका द्वारा जनता सरकार में अपनी  
शिकायत दिनांक 21/7/2011 को लगभग 6 महीने बाद जमा  
कराया गया। आवेदिका किशो कुमारी कास्कर में मेरे  
विद्यालय में दिनांक 24.06.2011 को जोगानर के लिए  
इसके वी.सी. और दूसरे जोगानर लेने का अनुरोध किया था।  
लेकिन मैंने जोगानर लेने के लिए कहकर मना किया कि  
जोगानर के लिए निर्धारित खमर प्रकाश चुना है, अतः  
इसके प्रमुख शिक्षा पदाधिकारी से संपर्क करें।

105-10-10

अतः उपरोक्त दस्तावेज में स्पष्ट है  
कहा है कि आवेदिका का आरोप खमर  
इसके और नियन्त्रण है।

किंवदन्ती

अनुभव

① प्रमुख शिक्षा पदां को सम्पर्क

② पत्रांक-52 दिनांक-17-05-11

③ विद्यालय शिक्षक उपस्थिति पंजी की प्रतिलिपि

ललित नाग साहू

01/01/2013

प्रधानाध्यापक  
गणेश विद्यालय टपडा टोला  
भवन-कुमारी (बिपुला)

शा. जवाहर

105-10-10



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श्रीमान् लक्ष्मण महोदय,  
जिला शिक्षक नियोजन अपीलीय प्राधिकार,  
मधेपुरा ।

पत्रांक - 03 दिनांक - 11-01-13

अपील नं० :- 132/11

किरण झारो वगैरह ----- अपीलार्थी

बनाम

प्रधानाध्यापक प्रा० विद्यालय टपरा टोला वगैरह---- प्रतिवादीगण

जबाब तरफ से प्रधानाध्यापिका उर्दू प्राथमिक विद्यालय, फुला-  
पट्टी & इतराईन उर्दू धाना-कुमारखंड, जिला-मधेपुरा :-

प्रतिवादी,

सेवा में तबियत निवेदन यह है कि मुझे इत प्राधिकार से एक नोटिस जिसका पत्रांक- 402, दिनांक-31-12-12 है मिली है जिसके माध्यम से मुझे निर्देश दिया गया है कि जब वादी मो० गोहर आलम योगदान लेने गये तो मैंने उनका योगदान क्यों नहीं लिया। इत सम्बंध में मुझे कहना है कि जब श्री मो० गोहर आलम मेरे विद्यालय में योगदान हेतु आये उससे पूर्व ही श्रीमान् प्रखण्ड शिक्षा प्रसार पदाधिकारी शिक्षक उपस्थित रजिस्टर पर जाँचोपरांत अपना हस्ताक्षर कर चुके थे तथा मैं अपने विद्यालय का सभी रिपोर्ट जैसे- डैट प्रपत्र, सीप प्रपत्र एवं प्रत्येक माह का मासिक प्रपत्र श्री मान् प्रखण्ड शिक्षा प्रसार पदा० के कार्यालय में समर्पित कर चुकी थी तथा श्रीमान् प्रखण्ड शिक्षा प्रसार पदाधिकारी द्वारा मौखिक आदेश दिया गया था कि मैं किसी शिक्षक का योगदान नहीं हूँ, साथ ही श्री मो० गोहर आलम नियोजन के करीब छः माह बाद योगदान हेतु आये थे, इतलिये मैंने उनका योगदान नहीं लिया ।

अतः प्रार्थना है कि मेरे इत जबाब को स्वीकृत करने की कृपा की जाय ।

प्रार्थी

तरनुम कोम  
11.1.13  
प्रधानाध्यापिका  
उर्दू प्रा० वि० यदुआपट्टी  
प्रखण्ड-कुमारखंड (मधेपुरा)

पत्रांक - 17 दिनांक - 16.01.2013  
प्रेषक - प्रधानाध्यापक  
उत्कर्मित मा वि० इकराईन खुर्द ।

स्वेना में,

सदस्य

जिला शिक्षक नियोजन  
अपीलीय प्राधिकार मधेपुरा

विषय - अपील सं०-132/2011 के प्रतिवेदन के

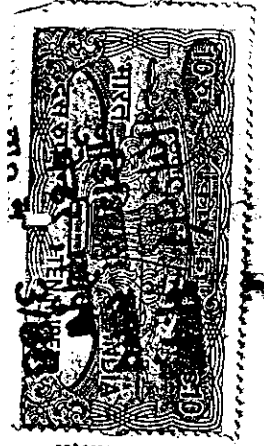
सम्बन्ध में,

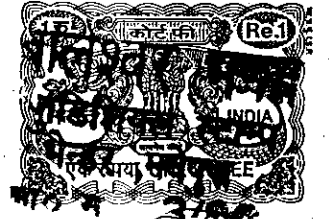
प्रसंग - ग्राम पंचायत ई० खुर्द के नियोजन  
के सम्बन्ध में,

महाशय

उपयुक्त विषय के सम्बन्ध में ग्राम पंचायत  
ई० खुर्द के द्वारा पंचायत शिक्षक के पद पर प्रथम  
शिक्षा पदाधिकारी के मौखिक आवेदन जाँचियोजन  
अधूर्य है कारण योगदात नहीं लिया गया।

विश्राम राज  
प्रबन्धक  
मधेपुरा  
मा० वि० इकराईन खुर्द  
मधेपुरा





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न्यायालय

जिला शिक्षक नियोजन अपीलीय प्राधिकार, मधेपुरा।

अपील वाद सं० 132/2011

1. किरण कुमारी
2. अवदुस रामद
3. गोहर आलम

वादी

वनाम

पंचायत नियोजन ईकाई इसराइन खुर्द

प्रखंड- कुमारखंड, जिला- मधेपुरा

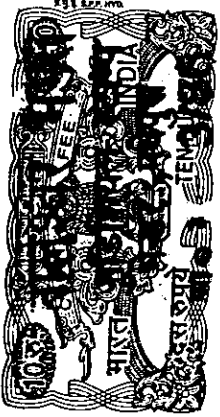
प्रतिवादीगण

आदेश

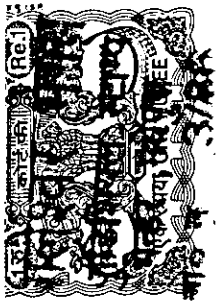
- (1) उपरोक्त तीनो वादीगण का केश है कि वेलोग द्वितीय शिक्षक नियोजन वर्ष 2008 में पंचायत शिक्षक में नियोजन हेतु ग्रामपंचायत इसराइन खुर्द में आवेदन दिया था। मेधा सूची के प्रकाशन के बाद ये लोग कौन्सिलिंग में भाग लिया। पंचायत नियोजन ईकाई ने इनलोगों का नियोजन पंचायत शिक्षक में पत्रांक- 14, दिनांक 29.12.10 को किया। किरण कुमारी का नियोजन अनुसूचित जाति के महिला कोटि में किया और इनका पदस्थापन प्रा० वि० टपड़ा टोला में किया। जब वे योगदान करने गई तो वहाँ के प्रधानाध्यापक ने इनका योगदान नहीं लिया। अवदुस समद का नियोजन अतिपिछड़े वर्ग कोटि में किया और इनका पदस्थापन उत्कर्मित मध्य विद्यालय इसराइन खुर्द में किया। जब वे योगदान देने गई तो वहाँ के प्रधानाध्यापक ने उनका योगदान नहीं लिया। गोहर आलम का नियोजन अनारक्षित उर्दू कोटि में किया और इनका पदस्थापन उर्दू प्रा० वि० यदुआपट्टी किया लेकिन वहाँ के प्रधानाध्यापक ने इनका योगदान नहीं लिया। अतः इनलोगों का प्रार्थना है कि संबन्धित विद्यालय के प्रधानाध्यापक को निर्देश दिया जाय कि इनलोगों का योगदान लें और वहाँ कार्य करने दिया जाय।
- (2) प्रा० अ० प्रा० विद्यालय टपड़ा टोला ने उपस्थित होकर लिखित जवाब दिया है कि किरण कुमारी दिनांक 21.07.2011 को नियोजन के करीब छः महीना बाद योगदान करने आई थी इसलिए योगदान नहीं करने दिया और इस संबन्ध में मैंने प्रखंड शिक्षा पदाधिकारी को पत्रांक- 7, दिनांक 26.07.11 के द्वारा दिया चूकि विद्यालय से मासिक प्रतिवेदन भेज दिया गया था इसलिए योगदान पूर्व की तिथि में नहीं दिया जा सकता है।
- (3) प्रा० अ० उत्कर्मित मध्य विद्यालय इसराइन खुर्द ने उपस्थित होकर अपना जवाब पत्रांक- 7, दिनांक 16.01.2013 को दिया कि अवदुस समद का योगदान अधुरा कागजात के कारण नहीं लिया गया।
- (4) प्रा० अ० उर्दू प्रा० विद्यालय यदुआपट्टी ने लिखित जवाब दाखिल किया है कि गोहर आलम नियोजन के छः माह बाद योगदान करने आए थे इसलिए योगदान नहीं लिया गया।
- (5) पंचायत सचिव, ग्राम पंचायत इसराइन खुर्द लिखित जवाब दाखिल किया है। इनका जवाब है कि मेधा सूची का प्रकाशन कर दिनांक 28.02.2009 को



13/3/13







कौन्सिलिंग किया गया। दिनांक 14.08.2010 तक नियोजन देना था लेकिन कुछ तकनीकी कारण से नियोजन पत्र नहीं दिया गया था तथा विभाग ने नियोजन को स्थगित कर दिया था। निर्देशानुसार अभ्यर्थियों से प्राप्त प्रमाण-पत्र को सत्यापन हेतु प्रखंड कोषांग को उपलब्ध करा दिया गया था। पुनः मानव संसाधन विकास विभाग के आदेशानुसार 29.12.10 को नियोजन पत्र दिया गया। जब नियोजन की सूचना देने प्रखंड शिक्षा पदाधिकारी को देने गए तो वे बोले कि आपके द्वारा किया गया नियोजन अवैध है।

- (6) प्रखंड शिक्षा पदाधिकारी, कुमारखंड ने अपने पत्रांक- 515, दिनांक 04.09.12 के द्वारा प्रतिवेदन दिया है कि पंचायत सचिव अधुरा प्रतिवेदन देने आया था। उनसे कहा गया कि पूर्ण प्रतिवेदन लेकर आवे लेकिन आज तक वे प्रतिवेदन नहीं देने आए।
- (7) इस अपील के निर्णय हेतु एक ही न्याय विन्दु गठित करने की आवश्यकता है कि क्या नियोजन विधिवत रूप से तथा सरकार के निर्धारित नियमों के आलोक में किया गया है या नहीं।
- (8) पंचायत सचिव के द्वारा निर्गत नियोजन पत्र पत्रांक- 16, दिनांक 29.12.10 के अवलोकन से पता चलता है कि नियोजित शिक्षकों का प्रमाण-पत्र का सत्यापन नहीं किया गया था। प्रमाण-पत्र का सत्यापन किए बिना नियोजन कर दिया गया है। बिहार सरकार के मानव संसाधन विकास विभाग के पत्रांक- 207, दिनांक 21.02.11 के अनुसार सरकार को यह सूचना मिली कि जिन नियोजन ईकाई में मेधा सूची का अन्तिम प्रकाशन नहीं हुआ है तथा जाँच हेतु प्रमाण-पत्र को नहीं दिया गया था वहाँ की नियोजन पत्र देने की कार्रवाई को अवैध मानते हुए विभागीय पत्रांक- 1537, दिनांक 14.12.10 के द्वारा कतिपय निर्देश दिया गया। अब विभागीय पत्रांक- 1557, दिनांक 24.12.10 के अनुसार सरकार ने निर्देश दिया कि नियोजन की कार्रवाई वैसे ही नियोजन ईकाई में की जायगी जहाँ मेधा सूची का अन्तिम प्रकाशन हो चुका हो तथा प्रमाण-पत्र की जाँच बोर्ड ऑफिस एवं अन्य विश्वविद्यालय से कराई जा चुकी हो। उपरोक्त कार्रवाई नहीं की गई हो तो नियोजन स्थगित रहेगा।
- (9) उपरोक्त सरकार के निर्देश के आलोक में नियोजन पत्र के अवलोकन से साफ प्रतीत होता है कि प्रमाण-पत्रों का सत्यापन नहीं हुआ है। पंचायत नियोजन ईकाई ने सरकार के उपरोक्त निर्देश का अवहेलना कर नियोजन किया है जो गलत है। जबकि सरकार ने नियोजन को स्थगित रखने का आदेश दिया है।

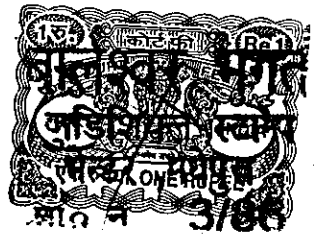
उपरोक्त परिस्थिति एवं सरकार के निर्देशानुसार अपील चलने योग्य नहीं है। अतः अपील खारीज किया जाता है।

*M. S. 13*  
सदस्य 13/3/13

प्रमाणिकरण शुल्क  
12-13  
तुलन लिपिक

COMPARED BY  
*M. S. 13*  
Comparing Clerk

Certified to be a true जिला शिक्षा नियोजन,  
अपीलीय प्राधिकार, मधेपुरा  
Head Clerk  
U/S 76 Act, 1 of 1872



व्यनित अर्थी का नाम एवं कोटि निम्न प्रकार है :-

| क्रमांक | कोटि        | व्यनित अर्थी का नाम                                | भेदा अंक             | व्यनित पद |
|---------|-------------|--|----------------------|-----------|
| 01      | एससी उर्दू  | काउन्सिलिंग में किसी अर्थी के नहीं आने के कारण पद- |                      | रिक्त     |
| 02      | गुआरफ उर्दू | , , , ,  |                      | रिक्त     |
| 03      | ईबीसी उर्दू | अब्दुसमद अ.प्रि.०                                  | 985/1200-<br>882-08  | 01        |
| 04      | गुआर उर्दू  | गौहर आत्म अ.प्रि.०                                 | 1014/2000-<br>884-50 | 01        |
| 05      | एसटीएफ      | किरण कुमारी अ.प्रि.०                               | 524/900 -<br>858-22  | 01        |
| 06      | गुआरफ       | जोना प्रवीणा अ.प्रि.०                              | 930/1200-<br>877-95  | 01        |
| 07      | बीसी        | नित्यानन्द गदव अ.प्रि.०                            | 56-56-               | 01        |

कुल :- 05

इस प्रकार कुल पाँच अर्थीयों का नियोजन पत्र देने हेतु व्यनित किया गया, जबकि गुआरफ कोटि के व्यनित अर्थी जोना प्रवीणा जो अंगनवाड़ी सेविका में कार्यरत हैं के द्वारा अपना सहमति पत्र नहीं दिया जिसके कारण नियोजन समिति द्वारा केवल 04 अर्थीयों - 1. अब्दुसमद-ईबीसी उर्दू 2. गौहर आत्म गुआर उर्दू 3. किरण कुमारी एसटीएफ- एवं नित्यानन्द गदव बी.सी. अ.प्रि.० से शैक्षणिक प्रमाण पत्र के संबंध में शपथ पत्र प्राप्त कर उपरोक्त अर्थीयों को नियोजन पत्र दिया था। एवं अर्थीयों को व्यनित विद्यालय में श्रेय योगदान देने का निर्देश दिया गया।

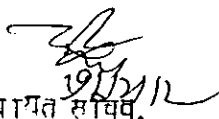
जहाँ तक नियोजन की सूचना देने की बात है, इस सम्बंध में निवेदन पूर्वक अंकित करना है कि नियोजनोपरान्त भेदा सूची, काउन्सिलिंग पंजी एवं व्यनित अर्थीयों की सूची की छाया प्रति के साथ प्रथम शिक्षा-



पदाधिकारी कागति, कुमारखण्ड को समय पर उपलब्ध कराया गया लेकिन उनके द्वारा यह कहकर की नियोजन की सूचना अधूरा है इसलिए पूर्ण रूप से दो जगह लेकिन यह नहीं बताया गया कि पूर्ण सूचना किस प्रकार होती है। मैंने उनसे कहा भी कि तत्काल मौखिक हीं सही इसे सूचना समझा जाय एवं अग्रेतर कार्रवाई की जाय मैं पुनः सभी पंजी को छाया प्रेषित भी आपको उपलब्ध करा देंगे। पुनः सभी पंजी की छायाप्रति के साथ उनके पत्रों पहुंचवा तो कहा गया कि सूचना देने का समय समाप्त हो गया है और आपके द्वारा किया गया नियोजन अवैध है। जबकि प्रखण्ड शिक्षा पदाधिकारी कुमारखण्ड द्वारा दिये गये प्रतिकेदन से भी स्पष्ट है कि उन्हें नियोजन की जानकारी थी लेकिन गलत मंशा के चलते ही उनके द्वारा अग्रेतर कार्रवाई नहीं की गयी जिसके कारण नियोजित शिक्षकों का क अभी तक विद्यालय प्रधान द्वारा प्रोविशोपदाधिकारी के मौखिक निर्देशानुसार योगदान नहीं लिया जो बिहार प्रारम्भिक शिक्षक नियोजन नियमावली, 2008 ई0का सरासर उल्लंघन है।

अतः श्रीमान से सख्दर निवेदन है कि नियोजन इकाई द्वारा किये गये नियोजन को वैध करार देते हुए प्रोविशो पदाधिकारी, कुमारखण्ड को अपने स्तर से आदेश दिया जाय कि वे नियोजित शिक्षकों को वगनित विद्यालय में योगदान करावें एवं मानदेय का भुगतान हेतु अग्रेतर कार्रवाई करें।

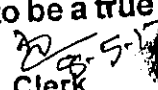
विश्वासभाजन

  
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प्रमाणिकरण शुल्क

13/05/13  
तुलन लिपिकु 5-13

COMPARED BY  
  
Comparing Clerk

Certified to be a true  
  
Head Clerk  
U/S 76 Act. 1 of 1872.