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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letters Patent Appellate Jurisdiction)

L.P.A. No. _____ of 2012

(Arising out of order dated 12.04.2012

Passed in C.W.J.C. No.957 of 2012)

Awdhesh Kumar Respondent No.12-Appellant.

Versus

The State of Bihar and others Respondents/Respondents.

Sub: L.P.A. Matter.

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Awdhesh Kumar Respondent No.12-Appellant.

Versus

The State of Bihar and others Respondents/Respondents.

SYNOPSIS

: - This Letters Patent Appeal is being filed for setting aside the impugned order dated 23.04.2012 passed in C.W.J.C. No. 957/2012 by Hon'ble Single Judge presided over by Hon'ble Mr. Justice Jayanandan Singh.

LIST OF DATE'S AND EVENTS

- 2006: Appellant alongwith writ petitioner and others applied for the post of Panchayat teacher of Gram Panchaat Bhatrandha Parmanandpur, Block-Ghailadh, District-Madhepura.
- 19.11.07: Merit list was prepared and date of counseling was fixed i.e. on 19.11.2007.
- 30.11.07: Writ petitioner was selected ignoring the valid claim of the appellant.

: II :

09.09.10: Appellant filed CWJC No. 5241/2008 which was disposed of directing him to move before appellate authority.

20.04.11: M.J.C. No. 1277/2011 (modification) was filed by the appellant for extension of time which was allowed..

30.11.11: The learned Appellate Authority allowed the claim of the appellant passed in Appeal No, 23/2011 filed by the appellant. :

12.04.12:: The writ petitioner filed the connected writ petition being C.W.J.C. No.957/2012 against the order of appellate authority dated 30.11.2011 which was disposed of vide impugned order dated 12.04.2012 without appreciating the material aspects of the case.

Hence this Letters Patent Appeal.

Through:-
Pravesh Mishra
Patna for 10/11

IN THE HIGH COURT OF JUDICATURE AT PATNA
(Letters Patent Appellate Jurisdiction)

L.P.A. No. _____ of 2012

(Arising out of order dated 12.04.2012
Passed in C.W.J.C. No.957 of 2012)

In the matter of an
appeal under clause
10 of the Letters
Patent Appeal of the
Patna High Court
Rules;

And

In the matter of
Awadhesh Kumar, son of Late Rasik Lal Yadav, resident of
village-Parmanandpur, P.S.-Ghailadh, District- Madhepura.

..... Respondent No.12-Appellant.

VERSUS

1. The State of Bihar through the Principal Secretary,
Human Resources Development Department,
Government of Bihar, Patna.

2. The Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Director, Department of Primary Education, Government of Bihar, Patna.
4. The District Magistrate, Madhepura.
5. The District Education Officer, Madhepura.
6. The District Programme Officer, Madhepura.
7. The Block Development Officer, Ghailadh Block, District-Madhepura.
8. The Block Education Extension Officer, Ghailadh Block, District-Madhepura.
9. The Mukhia, Gram Panchayat Raj-Bhatrandha Parmanandpur, Block-Ghailadh, District-Madhepura.
10. The Panchayat Secretary, Gram Panchayat Raj-Bhatrandha Parmanandpur, Block-Ghailadh, District-Madhepura
11. The District Teachers Employment Appellate Authority, Madhepura through its member.

..... Respondents-Respondents 1st set

12. Gopesh Kumar, son of Sri Ragjwendra Yadav, resident of village-Mohanpur, P.S.-Ghailadh, District-Madhepura.

..... Petitioner-Respondent 2nd set.

To,

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

The humble memo of
appeal on behalf of the
appellant above-named;

Being aggrieved by and
dissatisfied with the order dated
12.04.2012 passed by Hon'ble
Mr. Justice Jayanandan Singh in
C.W.J.C. No. 957 of 2012
(Gopesh Kumar Vs The State of
Bihar and others), the appellant
begs to prefer this Letters Patent
appeal on amongst others the
following

GRUNDS:-

1. For that the impugned order is bad in law as
also on facts.

2. For that the Hon'ble Single Judge has deviated from the main issue and as such has passed an illegal order.
3. For that the appellant raised his grievance before the Appellate Authority with regard to his appointment and as such direction was given for his appointment and the Hon'ble Single Judge deviating from the issue directed the employment agency for fresh counselling and process of appointment which can not ^{be} said to be justified in the eye of law in as much as there was no any claimant either before the appellate authority or before the Hon'ble Single Judge.
4. For that the Appellante Authority passed the order taking into consideration all the facts and circumstances of the case and the same could not be appreciated by the Hon'ble Single Judge.

5. For that the order of the Appellate Authority clearly indicates that due to bugling in the matter of appointment the appellant could not be appointed which facts could not be appreciated by the Hon'ble Single Judge.
6. For that in any view of the matter order of the Hon'ble Single Judge is illegal, improper, unjust and against the provision of law.
7. For that there are some good grounds also which shall be placed at the time of arguments of this case.
8. For that the appellant has not filed any other appeal before this Hon'ble Court against the impugned order.

It is, therefore, Prayed that **Your Lordships** may graciously be Pleased to Admit this appeal, call for the record of this case issue notice to the Respondents and after hearing the

parties be pleased to set aside the impugned order dated 12.04.2012 passed in C.W.J.C. No. 957 of 2012 (Gopesh Kumar Vs The State of Bihar and others) by Hon'ble Mr. Justice Jayanandan Singh and be further pleased to dismiss the connected writ application for the ends of justice and equity.

And/or

May pass any such appropriate order or orders as to Your Lordships may deem fit and proper.

And for this, the Respondent no.12-Appellant shall ever pray.

CERTIFICATE

I hereby certify that the grounds set forth above are good grounds for this Letters Patent appeal.

My instruction is that the matter giving rise to this Letters Patent Appeal (L.P.A.) has never come before this Hon'ble Court earlier.

It is further certify that No notice either to Attorney General of India or to the Advocate General of Bihar is required to be served under Order 27-A Rule-1 of the Code of Civil Procedure.

Pranod Mishra
Advocate for appellant.
7/5/12
AOR-05244

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.957 of 2012

1. Gopesh Kumar Son Of Sri Raghwendra Yadav Resident Of Village -
Mohanpur, P.S.- Ghailadh, District - Madhepura

..... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Human Resources
Development Department, Govt. Of Bihar, Patna
2. The Secretary, Human Resources Development Department, Govt. Of
Bihar, Patna
3. The Director, Department Of Primary Education, Government Of
Bihar, Patna
4. The District Magistrate, Madhepura
5. The District Education Officer, Madhepura
6. The District Programme Officer, Madhepura
7. The Block Development Officer, Ghailadh Block District- Madhepura
8. The Block Education Extension Officer, Ghailadh Block, District
Madhepura
9. The Mukhiya, Gram Panchayat Raj Bhatrandha Parmanandpur, Block
Ghailadh, District - Madhepura
10. The Panchayat Secretary, Gram Panchayat Raj Bhatrandha
Parmanandpur, Block Ghailadh, District Madhepura
11. The District Teachers' Employment Appellate Authority Madhepura
Through Its Member
12. Awdhesh Kumar Son Of Late Rasikalal Yadav Resident Of Village
Parmanandpur, P.S.- Ghailadh, District - Madhepura

..... Respondent

Appearance :

For the Petitioner/s : Mr. Bam Bahadur Jha
For the Respondent/s : Mr. Subhash Pd. Singh Ga7

CORAM: HONOURABLE MR. JUSTICE JAYANANDAN SINGH
ORAL ORDER

4 12-04-2012 Annexure-8 is the order of the Appellate Authority,
which the appointment of the petitioner has been cancelled and
respondent no.12 has been directed to be appointed as Panchayat
Teacher in his place in B.C.-I category. The finding of
Appellate Authority is that in the register of applicants, names

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Patna High Court

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more than 50 applicants entered. However, in the counselling only petitioner was shown as present and he was appointed. Primarily on this finding, besides other infirmities in the selection process, the appointment of the petitioner has been cancelled.

Learned counsel for the petitioner submits that, if gross irregularities in the selection process had been found, the Appellate Authority should have directed the process to be held afresh by giving opportunity to all the applicants to appear in the counselling and should not have directed for appointment of respondent no.12 only.

Learned counsel appearing for respondent no.12 submits that he has no objection if this Court directs the Employment Agency to hold fresh selection process by calling all the candidates for counselling whose names had been entered in the register and thereafter make appointment afresh in accordance with law.

In the circumstances, the order of the Appellate Authority is modified to the extent that the Panchayat Secretary is directed to take steps for holding entire process of selection afresh by giving opportunity to all the candidates who had applied for appointment in this category and then make appointments afresh in accordance with law. If the merit list of all the candidates, who were

applicants for appointment, has already been prepared, the Employment Agency shall invite objections to the same by ensuring service of notice on all the applicants by a reliable mode and thereafter shall take steps for holding counselling and shall finally select candidate in accordance with law and issue appointment letter to him against the post of B.C.-I category, positively within three months from the date of receipt/production of a copy of this order.

This writ application is disposed of with the aforesaid observations and directions.

Sdr (Jayanandan Singh, J)

Arvind/-

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For Joint Registrar (P)
Patna High Court
19/4/12

19.4.2012
30.2.2012