
(2017) 12 PAT CK 0024

In the Patna High Court

Case No : 12362 of 2015

Bibi Kahkashan Praween, W/o- Md. Khalid Hussain

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 12-12-2017

Acts Referred:

Citation : (2017) 12 PAT CK 0024

Hon'ble Judges : Ahsanuddin Amanullah

Bench : SINGLE BENCH

Advocate : Rajeev Kumar Singh, Anjani Kumar, Sita Ram Prasad, Vishwambhar Prasad

Final Decision : Disposed off

Judgement

1. Heard learned counsel for the petitioners and the State.

2. The petitioners have moved the Court for the following reliefs:

"(I) To quash the order dated 04.06.2015 passed by the District Teachers Appointment Appellate Authority, Araria whereby and whereunder the Appeal filed by petitioners pursuant to order dated 04.12.2014 passed in C.W.J.C. No. 22449 of 2011 (Neelam Neshat Aafrin & others Vs. the State of Bihar and others) has been rejected without going into merit of the case as directed by this Hon'ble Court. A copy of order dated 04.06.2015 is annexed as Annexure-1 to this application. (II) To direct the Appointing Authority to issue appointment letters in favour of petitioners on the post of Block Teacher in view of the fact that they have finally been selected but their appointment letters have not been issued by the Appointing Authority for want of verification of testimonials. And for any other relief(s) for which the petitioners may be found entitled in the facts and circumstances of the case."

3. The contention of the petitioners is that pursuant to the earlier remand by a co-ordinate Bench of this Court in C.W.J.C. No. 22449 of 2011 dated 04.12.2014, the District Teachers Employment Appellate Authority, Araria (hereinafter referred to as the "Authority") was required to consider the matter in the following terms:

"The matter is remitted back to the Appellate Authority to consider whether there was any lapse on the part of the petitioners in completion of verification of their certificates within time prescribed in the letter issued vide memo No. 3263 dated 06.12.2010 by the Principal Secretary, Human Resources Development Department, Government of Bihar. If the Appellate Authority comes to a finding that any lapse has been attributable to these petitioners, he will be required to adjudicate upon the claims of these petitioners on their appeals, in accordance with law. The Appellate Authority will be required to pass final order within a period of six months from the date of receipt/production of a copy of this order. If Appellate Authority finds that certificates could not be verified, even in the meanwhile, he may issue direction to the authorities to get the certificates verified and proceed accordingly to fill up the vacancies in question".

4. Learned counsel for the petitioners submitted that despite the clear cut direction of the co-ordinate Bench, the Authority has refused to interfere in the matter only on the ground that the vacancy was not available since it was merged in the subsequent appointment with subsequent vacancy. It was submitted that once the Court had directed for consideration in a particular manner, it was incumbent upon the Authority to look into that aspect and it could not be guided or governed by any extraneous consideration as to whether the post was merged later or not since this was not an issue before the Authority in light of the specific direction of the Court in its order dated 04.12.2014.

5. Learned counsel for the State submitted that though the stand of the State is that such vacancies were merged with the subsequent vacancies but he was not in a position to defend the order, which is clearly in contravention of the earlier order of the

Court dated 04.12.2014 in C.W.J.C. No. 22449 of 2011.

6. Having considered the matter, the Court finds that the order impugned is unsustainable. Without going into the merits of the matter, on the short point that the specific direction of the Court in its order dated 04.12.2014 was to the Authority to consider whether there was any lapse on the part of the petitioners in completion of verification of the certificate within the time prescribed and thereafter, it was further directed that if the Authority comes to a finding that any lapse has been attributable to the petitioners, it was required to adjudicate upon the claims of the petitioners, in accordance with law. There was a further direction that if the certificates could not be verified even in the meanwhile, it may issue direction to the authorities to get the certificate verified and proceed accordingly to fill up the vacancy in question. It need not over emphasized that the directions of the Court are to be complied with mandatorily and the Authority was equally bound to do so and could not have gone on a tangent and not considered the matter as per the directions of the Court, only for the reason that the vacancies were subsequently merged in the subsequent fresh transaction for appointment. It was incumbent upon the authority to adjudicate in terms of the directions and thereafter to proceed, irrespective of whether such vacancies got merged subsequently. Such issue of whether the vacancies had been merged in the subsequent transaction was not something to be considered by the Authority and if the Authority felt any difficulty, either details of vacancy could have been sought or the Authority could just have decided on merits, come to a conclusion and left the consequences to follow, in accordance with law. However, the authority cannot take a stand that because of some other reasons, order of the High Court shall not be complied with, which, in fact is also contemptuous.

However, the Court would not like to go into such aspect and leave the issue where it is.

7. For reasons aforesaid, the order impugned stands set aside. The matter is remanded to the Authority, which is directed to pass fresh orders after hearing the parties, in accordance with law and strictly as per the directions given by the Court earlier in its order dated 04.12.2014 in C.W.J.C. No. 22449 of 2011.

8. The writ petition stands allowed. As the matter has lingered for quite sometime, the Authority is directed to ensure that final orders are passed latest within three months from the date of production of a copy of this order before the Authority.

9. Interlocutory Application No. 5570 of 2017 stands disposed off.