

**(2018) 10 PAT CK 0017**

**In the Patna High Court**

**Case No :** Letters Patent Appeal No.1710 of 2014 In Civil Writ Jurisdiction Case No.12926 of 2010

**Kishori Choudhry @APPELLANT@Hash State of Bihar**

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**Date of Decision :** 09-10-2018

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2018) 10 PAT CK 0017

**Hon'ble Judges :** Dr. Ravi Ranjan, J;Madhuresh Prasad, J

**Bench :** Division Bench

**Advocate :** Rajendra Sharma, Himanshu Kumar Akela

**Final Decision :** Dismissed

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**Judgement**

1. Heard the parties.

2. The letters patent appeal has been filed against the order dated 04.09.2014 passed in C.W.J.C. No. 12926 of 2010 dismissing the petitioner's writ petition.

3. The petitioner has sought quashing of the order dated 12.06.2010 whereby the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur rejected the petitioner's representation filed in compliance of earlier order dated 08.12.2009 passed in C.W.J.C. No. 13895 of 2001.

4. The brief background is that alongwith 42 others the petitioner was appointed as teacher in Government Basic School on 15.10.1990 (Annexure 3).

He was sent for training in 1994 which he could not successfully complete.

5. The petitioner did not have B.Ed qualification or qualification of Teachers Training. The petitioner's name was not figuring in the list of the

candidates appearing in interview nor in the merit list prepared for the purpose of appointment prior to issuance of appointment letter in his favour on

15.10.1990. His services were thus terminated. The order of termination was quashed by this Court in the earlier proceedings arising out of C.W.J.C.

No. 13895 of 2001 on the ground that the petitioner had not been communicated the reasons for cancellation of his appointment while issuing the show cause notice.

6. The matter was thereafter, considered by the authorities afresh and after complying with a show cause notice in accordance with law. The same resulted in issuance of the order dated 12.06.2010. The order was issued after due opportunity to the petitioner, wherein a finding was recorded that petitioner's name did not figure in the list of candidates who were interviewed for the purpose of appointment as teacher in basic schools. His name was not in the merit list also. The finding is that without participating in the process of selection the petitioner has been issued an appointment letter dated 15.10.1990.

7. Counsel for the appellant-writ petitioner has submitted that he cannot be saddled with the consequences of his name not appearing in the list of candidates appearing for interview or merit list, that also after 20 years of service.

8. The order dated 12.06.2010 has been passed after duly complying with the Principles of Natural Justice and fair play. The fact that the petitioner's name did not figure in the list of candidates interview and merit list is not denied or disputed by the counsel for the appellant-writ petitioner. He is only submitting that for such lapse he cannot be penalized.

9. In view of the aforesaid position, this Court is of the considered opinion that the petitioner cannot avail of any benefit, in the light of the finding arrived at that he had neither participated in the interview nor his name was figuring in the merit list, prior to issuance of appointment letter in his favour.

10. No objection has been raised as regards the procedure adopted before issuing the impugned order dated 19.04.2010. This Court would thus also observe that the scope of judicial review under Article 226 of the Constitution of India is confined to the decision making process, which in the instant case is not being assailed. This Court under judicial review is not supposed to sit as an Appellate Authority over the order dated 12.06.2010.

11. In view of the aforesaid findings, this Court does not see any reason to

interfere with the order dated 04.09.2014 passed on the writ petition.

12. The Letters Patent Appeal is devoid of merit and the same is dismissed.