
(2005) 02 PAT CK 0084
In the Patna High Court
Case No : C.W.J.C. No. 12676 of 1999

Shashi Bhushan Roy and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 03-02-2005

Acts Referred:

Citation : (2005) 1 BLJR 428 : (2005) 2 PLJR 16

Hon'ble Judges : Chandramauli Kumar Prasad, J

Bench : Single Bench

Advocate : Arvind Kumar Verma, for the Appellant; Satyawrat Varma, JC to GP 8, for the Respondent

Final Decision : Dismissed

Judgement

Chandramauli Kumar Prasad, J.—This application has been filed for issuance of a writ in the nature of certiorari for quashing the order dated 27.9.1997 passed by the Director, Primary Education, (Annexure-4) whereby the prayer made by the petitioners for appointment as Assistant Teachers has been declined. Further prayer made by the petitioners is to issue a writ in the nature of mandamus commanding the respondents to appoint them as Assistant Teachers.

2. Short facts giving rise to the present application are that an advertisement was issued in the year 1985 for appointment to the post of Assistant Teachers. In pursuance of the said advertisement merit lists were prepared categorywise alleging that person below them in the merit list/waiting list have been appointed, petitioners preferred CWJC No. 10282 of 1993, Sashi Bhushan Rai and Ors. v. State of Bihar and Ors., before this Court. A division Bench of this Court by order dated 3.3.1994 (Annexure-2) disposed of the said writ application with the following direction :--

"In our opinion, the claim of the petitioners can be more; conveniently disposed of by the learned Director, Primary Education as it is heard on certain facts which needs to be verified. Accordingly, we direct that in case the petitioners file any

representation before the Director within two weeks from today then the same should be disposed of in accordance with law as laid down by the Supreme Court in the aforesaid case within two months from the date of such filing."

3. In the light of the aforesaid order the case of the petitioners was considered and by order dated 25.5.1995, the Director, Primary Education, rejected their prayer.

4. Aggrieved by the same petitioners preferred CWJC No. 11821 of 1985, Sashi Bhushan Rai and Ors. v. State of Bihar and Ors., complaining that the Director had passed the order without giving any opportunity to the petitioners. This Court by order dated 8.4.1997 (Annexure-3) disposed of the writ application inter alia observing as follows :--

"The Director, Primary Education, Human Resources Development Department, Government of Bihar, Patna is directed to pass a fresh reasoned order after giving an opportunity of hearing to the petitioners through their representative, if they so desire, within a period of four months from the date of receipt/production of a copy of this order."

5. In the light of the aforesaid order petitioners represented before the Director and they were also given the opportunity of hearing. The Director found that no person below them from the panel in the category in which they were considered were appointed and, as such, by the impugned order rejected the petitioners' prayer.

6. In paragraph 15 of the writ application petitioners have averred that Rajendra Prasad Singh, Shailendra Prasad and Baliram Prasad who are below them in the panel have been appointed and, as such, the conclusion arrived at by the Director that no person below them have been appointed is unfounded on fact and on this ground alone the impugned order deserves to be quashed and a writ in the nature of mandamus is fit to be issued directing the respondents to appoint the petitioners as Assistant Teachers.

7. JC to GP VIII however, contends that the case of Rajendra Prasad Singh and Baliram Prasad have been dealt with by the Director in the impugned order and it has been found that Rajendra Pd. Singh was appointed in pursuance of the order passed by the Supreme Court whereas Baliram Prasad's name finds place in a different category to which the petitioners' case cannot be compared. He also points out that petitioners did not make any grievance before the Director in regard to Shailendra Prasad Singh and further not only this he has not been impleaded as respondent in the present writ application. He submits that in his absence, decision touching his case is not fit to be rendered by this Court in the present writ application.

8. Having appreciated the rival submission I do not find any substance in the submission of the learned counsel for the petitioners. The grievance of the petitioners that person below them from the panel have been appointed is

unfounded on fact. Rajendra Prasad Singh has been appointed in view of the order passed by the Supreme Court and so far as Baliram Prasad is concerned, his name was included in a different category in which the names of the petitioners have not been mentioned. As such, they cannot compare their case with that of Baliram Prasad. From the impugned order it is evident that the petitioners had not made any grievance as regards Shailendra Prasad and it shall be wholly inappropriate to go into his appointment in his absence. Petitioners having not been able to establish that persons below in the panel than them have been appointed, the relief sought for in the present application is not fit to be granted.

9. In the result, I do not find any merit in this application and it is dismissed accordingly. No cost.