
(2020) 06 JH CK 0001

Jharkhand High Court

Case No: Writ Petition(S) No. 2600 of 2014

Kalidas Hembrom

APPELLANT

Vs

State of Jharkhand And
Ors

RESPONDENT

Date of Decision: June 1, 2020

Acts Referred:

Bihar (now Jharkhand) Nationalized Elementary School Teacher Promotion Rule, 1993 "Rule 5(4)

Citation: (2020) 06 JH CK 0001

Hon'ble Judges: Deepak Roshan, J

Bench: Single Bench

Advocate: Manoj Tondon, Mukesh Kr. Sinha

Final Decision: Disposed Of

Judgement

The instant writ application has been preferred by the petitioner for the following reliefs:-

(i) To issue a writ of quo warranto calling upon the respondents as to under what authority or right the respondent no. 4 holds the office and post of

Headmistress of Santal Middle School, Kairabani, P.O. Kairabani, P.S. Fatehpur,
District-Jamtara;

(ii) To hold and declare that respondent no.4 (Mrs. Sharmila Sarkar) has any power and authority to hold a public office of the post of Headmistress in

Santal Middle School, Kairabani, inasmuch, as she does not have the requisite qualification of appointment of such post in view of the fact that she does

not have the qualification of postgraduation.

(iii) To further hold and declare the appointment and promotion of respondent no. 4 is in teeth of Rule 5(4) of the Bihar (now Jharkhand) Nationalized

Elementary School Teacher Promotion Rule, 1993, as respondent no. 4 was appointed on 4th October, 1993 as Assistant Teacher (Grade-I) and she

was promoted directly to the post of Headmistress (Grade-VII) on 1st of November, 2002 without completing the Kalawadhi (time period) as

enshrined in the said 1993 Rules.

(iv) To direct the officials respondents 1 to 3 to recover the salary from respondent no.4 for the period she is found unauthorizedly working either on

substantive post or promotional post and to take action against all erring officers, who were responsible for appointing/promoting respondent no.4 and

allowed her to continue on such post.

2. Mr. Manoj Tondon, learned counsel for the petitioner submits that the private respondent was appointed as an Assistant Teacher (Grade-I) on 4th

October, 1993 as was informed to the petitioner by way of information given to him under Right to Information Act and she was promoted to the post

of Headmistress of Santal Middle School, Kairabani on 1st November, 2002. Learned counsel further referred various circulars and submits that the

appointment and the promotion of respondent no. 4 is in teeth of Rule 5 (4) of the Bihar (now Jharkhand) Nationalized Elementary School Teacher

Promotion Rules, 1993, because the respondent no. 4 was promoted directly to the post of Headmistress on 01.11.2002 without completing the

Kalawadhi (time period) as enshrined in the said Rule.

3. No counter affidavit has been filed by the State. Mr. Mukesh Kr. Sinha, Sr. S.C.-II appearing for the state submits that the petitioner may be

directed to file a fresh representation and the same will be treated in accordance with law.

4. Since the matter is of 2014 as such without going into the merits of this case, I dispose of the writ application by directing respondent no. 2 to treat

this writ application as representation and take a decision within a period of four months in accordance with law, rules and regulations from the date of

receipt of copy of the order and after giving proper opportunity to the petitioner and respondent no. 4.

5. With the aforesaid directions the instant writ application is disposed of.