

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17698 of 2013

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Kumari Kamini D/O Sri Rama Nand Sharma And W/O Sri Naresh Kumar Sharma
Resident Of Village+ P.O- Ali Nagar, Lordhan, P.S- Baligaon, Distt- Vaishali
(Hajipur)

.... Petitioner

Versus

1. The State Of Bihar Through Its Principal Secretary, Human Resources And Development Department, Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The District Teacher Employment Appellate Authority, Samastipur.
4. The Block Development Officer, Tajpur, Samastipur.
5. The Block Education Officer, Tajpur, Samastipur.
6. The Employment Committee, Gram Panchayat Raj Gauspur, Sarsains Block- Tajpur, Distt- Samastipur.
7. The Panchayat Secretary, Gram Panchayat Raj Gauspur, Sarsains, Block- Tajpur, Distt- Samastipur.
8. Kavita Kumari D/O Sri Suresh Rai R/O + Post Gauspur Sarsains, P.S- Tajpur, Distt- Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bam Bahadur Jha, Advocate
For the Respondents : Mr. Ajay Bihari Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 15-01-2015

Heard learned counsel for the petitioner, counsel for the private respondent no. 8, counsel for the State and the Secretary, Gram Panchayat.

After having gone through the entire pleadings and materials coupled with the perusal of the original record tendered to this Court by the Panchayat Secretary in relation to appointment of respondent no. 8, Kavita Kumari as a Panchayat



Teacher, the Court comes to a considered opinion that the appointment of respondent no. 8 Kavita Kumari, who also happens to be daughter of Suresh Rai, the Mukhiya at the relevant time, has been given the benefit of appointment on the basis of so called direction issued by the Teachers Employment Appellate Authority, Samastipur, contained in Annexure-2 was not an honest and fair exercise.

The order of the Tribunal dated 28.01.2011 has been used as a basis for begetting employment for the daughter of the Mukhiya of the Gram Panchayat, because the so called resolution dated 09.02.2011 is a hasty and clumsy effort made, it contains the signature of Mukhiya and the so called Panchayat Secretary only. No other member has either signed or there is evidence of any concerted decision by the committee as such.

The order of the Tribunal contained in Annexure-2, could have been a procured order only to facilitate appointment of the private respondent by the erstwhile Mukhiya. The object and purpose of the direction of the Tribunal contained in Annexure-2 was to give an opening to the person with the highest percentage of marks. No such claim of any candidate was considered on the specious ground that they had not participated in the counselling. Since counselling is required to be conducted by the Mukhiya as Chairman, the candidates with the highest merits and ability are always shooed away and not allowed to participate in the counselling. That is primary reason why this Court has found in hundreds if not thousands of cases that people with highest marks

and better percentage never find themselves in the merit list of selected candidates on the specious plea that they did not participate in the counselling. It has emerged in many a cases that the Mukhiya proves to be illusive and does the vanishing act on the date of counseling. He is available only to selective few who have obliged the Mukhiya or are otherwise favourite of the Mukhiya, for whatever other consideration.

In view of the same, Annexure-1 dated 21.12.2012, in relation to the claim of the petitioner which has been rejected by the Tribunal is set aside. The Panchayat is directed to consider implementing the order contained in Annexure-2 by considering the claim of the person under the said category with the highest marks unless such candidates are not available and are not willing to be so appointed give it in writing.

This direction however, will be subject to the current rule/policy of the State and whether such appointments are required to be filled up at all in the year 2015.

Writ is allowed in terms of the above directions.

The original registers are returned to the counsel for the Panchayat Secretary for safe keeping by the Panchayat.

(Ajay Kumar Tripathi, J)

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