

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20197 of 2012

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Rani Kumari W/O Ram Babu Singh Resident Of Village - Tilak Tajpur, Block -
Runnisaidpur, District - Sitamarhi, Presently Posted As Block Teacher In Upgraded
Middle School, Parari, P.O. - Thagar Block - Aurai, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education Department, Govt. Of Bihar, Patna
3. The District Magistrate, Muzaffarpur, District - Muzaffarpur
4. The District Education Officer, Muzaffarpur, District - Muzaffarpur
5. The Member District Teacher Employment Appellate Authority, Muzaffarpur
6. The District Programme Officer, Establishment, Muzaffarpur
7. The Block Education Extension Officer, Aurai, District - Muzaffarpur
8. Md. Manzar Alam S/O Md. Esha Resident Of Village + P.O. - Gaus Nagar, P.S. -
Runnisaidpur, District - Sitamarhi, Address For Correspondence At - Shahwajpur,
P.O. - Bhikhanpura, P.S. - Ahiyapur, District - Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s.S.B.K.Manglam
Mr. Shashi Bhushan Singh, Advocates.
For the State : Mr.Anil Kumar Singh, A.C. to G.P.4.
For the Respondent No.8: Mr. Ranjit Kumar Singh, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 06-05-2015

This is an application seeking quashing the order issued
vide Memo No. 248 dated 22.9.2012 (Annexure-10) whereby, the
Member, District Teacher Employment Appellate Authority,
Muzaffarpur (hereinafter to be referred to as “the Appellate
Authority”) has allowed an appeal preferred by respondent no.8 and
has thereby, while setting aside the appointment of the petitioner as
Block teacher against the post reserved for hearing disabled candidate,

directed the Authority to appoint the respondent no.8 against the said post on the ground that he belonged to the said category and he had more merit points than the petitioner.

2. I have heard Mr.S.B.K. Manglam, learned counsel appearing on behalf of the petitioner, Mr. Ranjit Kumar Singh, learned counsel appearing on behalf of respondent no.8 as well as Mr.Anil Kumar Singh, learned A.C. to G.P.4 appearing on behalf of the respondent the State of Bihar.

3. Facts are not in dispute at all, which are relevant for adjudication of the present case.

4. Applications were invited for appointment to the post of Block teacher for Aurai Block in the district of Muzaffarpur. In terms with the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter to be referred to as 'the Act'), three posts were required to be filled up by the candidates belonging to handicapped category. These three posts were required to be filled up by candidates belonging to physically handicapped, visually handicapped or suffering from hearing disability (one-each). This is not in dispute that the petitioner and respondent no.8 both had applied for the post of Block teacher and claimed the post reserved for handicapped persons with hearing disability. This is also not in dispute that merit point of the petitioner



for the said post was calculated to be 68.11 whereas that of respondent no.8 was found to be 73. However, the petitioner came to be appointed by the Appointing Authority, pursuant to which she submitted her joining on 13.8.2010. The respondent no.8 filed an application before the Appellate Authority immediately thereafter on 8.9.2010 wherein he claimed that he was placed at Serial No.1 in the merit list and he had participated in the counseling but for extraneous considerations, the concerned Block Education Officer selected the petitioner in his place despite the fact that her merit position was much below the respondent no.8. The appellate authority issued notice to the petitioner upon the said appeal, preferred by respondent no.8. The petitioner filed her reply before the Appellate Authority. The Appellate Authority after considering the contents of the appeal preferred by respondent no.8, the reply filed by the petitioner, and the materials relating to selection to the post of Block teacher held that the respondent no.8 having better merit points than the petitioner was entitled for the said post. From the order of the Appellate Authority it appears that it found that though the Respondent No.8 was hearing disabled, his case was wrongly considered as orthopedically handicapped.

5. Mr.S.B.K.Manglam, learned counsel for the petitioner, has submitted that despite the fact that the petitioner and respondent

no.8 both had applied and claimed reservation available for hearing disabled candidates, the petitioner should have been given preference, she being a female candidate, as the law provides 50% reservation for female candidates. He has submitted that out of the three posts, at least one post ought to have been filled up by giving benefit of reservation to a female candidate. He has also submitted that respondent no.8 had applied for the post of Urdu teacher and on that basis he had claimed reservation and, therefore, he should not have been appointed on the ground of hearing disability.

6. I do not find any merit in the submission made on behalf of the petitioner that since the petitioner was a female, she should have been given preference in the matter of appointment against the post reserved for a hearing disabled candidate for the simple reason that there was only one post reserved under that category. Secondly, I do not find any pleading or document in support of the plea that no female candidate was selected for appointment against the post reserved for handicapped category candidates, rather I find in the supplementary affidavit filed by the petitioner (Annexure-15) that one Minu Srivastava was selected as an orthopedically handicapped candidate. Learned counsel for the petitioner has also submitted that said Minu Srivastava did not submit her joining. In my opinion, non-joining of Minu Srivastava does not

make any difference. The respondent no.8 had certainly better right to be appointed as Block teacher against the post reserved for the visually handicapped candidate. The submission that Respondent no.8 had applied for the post of Urdu teachers, and, therefore, he was not entitled for reservation is not at all acceptable.

7. I do not find any infirmity in the order of the Appellate Authority, which is under challenge.

8. The present writ application is dismissed.

9. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

AnilKrSinha/-
N.A.F.R.

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