

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15933 of 2015

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Sulekha Kumari wife of Ranjit Kumar Das, Resident of village- Pir Nagar
P.O- Amari, via maghoul, P.S- Khodabandpur, Dist- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources, Govt. of Bihar, Patna.
2. The Director Primary School Govt. of Bihar, Patna.
3. The District Magistrate, Begusarai.
4. The District Education Officer, Begusarai.
5. The District Programme Officer, Begusarai.
6. The Block Education Officer, Chhorahi Block, Begusarai.
7. The Block Education Extension Officer, Chhorahi Block, Begusarai.
8. The Head Master Primary Middle School, Sahpur, Patala Block- Chaurahi, Dist.- Begusarai.
9. The Panchayat Secretary, Gram Panchayat Raj Shahpur, Block- Chaurahi, Dist- Begusarai.
10. The Mukhiya Gram Panchayat Raj Sahpur, Block- Chaurahi, Dist.- Begusarai.
11. The District Appellate Authority, Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sabal Kumar Jha, Adv
For the Respondent/s : Mr. Rajesh Singh GP-16

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 14-10-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application is to quash the order dated 18.08.2015, passed by the District Teachers Employment Appellate Authority, Begusarai (hereinafter referred to as the Tribunal), whereby and whereunder, the services of the petitioner on the post of Panchayat Teacher, having been found to be

bad, has been sought to be cancelled.

Learned counsel for the petitioner has submitted that the petitioner was belonging to Most Backward Category (MBC) and therefore, her appointment made on 04.01.2006, by the employing unit on the post of Panchayat Shiksha Mitra could not have been interfered by the Tribunal on an application filed by Ram Kumar Mahto.

This Court has, accordingly, gone into the averments made in the writ application and would find that the appointment of the petitioner was out and out illegal. The so called appointment letter of the petitioner on the post of Panchayat Shiksha Mitra dated 04.01.2006, is said to have been issued on the basis of the petitioner filing her application on 03.01.2006, before the Sukh Suvidha Samiti. The said post of Panchayat Shiksha Mitra in fact was never advertised allowing other candidates to also file their application and therefore, it becomes very clear that the petitioner was appointed through the back

door.



Reliance placed on the so called letter of Block Education Extension Officer, Khodahbandpur dated 03.12.2005, will also be of no avail because that was only instruction issued as with regard to issuance of an advertisement and in fact the Block Education Extension Officer, Khodahbandpur wanted the widest participation for filling up the post of Panchayat Shiksha Mitra, therefore, there being nothing on record in between 03.12.2005 to 03.01.2006. The post was never advertised in the newspaper and therefore, this Court will have no difficulty in coming to a conclusion that the petitioner had been stealthily appointed by the Mukhia and Panchayat Sachiv. It is this aspect of the matter, which also was noticed by the Tribunal, which had proceeded to examine the appointment in terms of the order of this Court dated 04.07.2013 in C.W.J.C No. 7670 of 2010. As a matter of fact, the Tribunal had also issued notice to the petitioner and after perusing the show cause reply filed by the



petitioner, it has come to a finding that the appointment of the petitioner is out and out illegal, in absence of vacant sanctioned post and all the four posts of Panchayat Shiksha Mitra were meant to be filled up by the candidates of female category. That apart the claim of the petitioner, of being, belonging to Most Backward Category was also found to be false. The Tribunal in fact has gone into the aspect of roster and has found illegality in selection process on the post of Panchayat Shiksha Mitra, including that of the petitioner, was apparent on the face of record. As a matter of fact, not only the petitioner's appointment and two others namely, Reena Kumari and Ram Kumar Mahto, were also found to be bad and therefore, the services were directed to be terminated.

As noted above, this Court will find no merit in the application primarily because the post in question on which the appointment of the petitioner was made was itself filled up in a most dubious manner. There was no

advertisement and yet single application of the petitioner became the basis for her appointment and that too by way of issuance of letter to the headmaster to accept the joining. For the post of Panchayat Shiksha Mitra, there was a requirement of execution of an agreement but nothing of that sort had happened and in fact the petitioner was sought to be appointed on the post of Panchayat Shiksha Mitra from the back door.

Such appointment, therefore, if cancelled under the impugned order of the Tribunal, this Court would not find the same to be contrary to law specially when the appointment of the petitioner does not meet the requirement of the guidelines, which was then existing, for appointment on the post of Panchayat Shiksha Mitra.

That being so, this application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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