

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1500 of 2012

IN

Civil Writ Jurisdiction Case No. 8613 of 2010

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Sita Kumari Daughter of Girish Rajak Resident of Village- Dharhara,
Panchayat Raj Makandpur, Anchal And P.S.- Gopalpur, District-
Bhagalpur. Appellant

Versus

1. The State of Bihar, through the Chief Secretary, Human Resources Development Department, Government of Bihar, Patna
 2. The Chief Secretary, Human Resources Development Department, Government of Bihar, Patna
 3. The Director, Pariyojana, Bihar, Patna
 4. The Commissioner, Bhagalpur Division, Bhagalpur
 5. The District Magistrate, Bhagalpur, District- Bhagalpur
 6. The District Superintendent of Education, Bhagalpur, District- Bhagalpur
 7. The Block Education Officer, Gopalpur, District- Bhagalpur
 8. The Block Education Extension Officer, Gopalpur, District- Bhagalpur
 9. The Principal/Head Master, Primary School, Malpur, Anchal- Gopalpur, District- Bhagalpur
 10. The Director, Secondary Education, Government of Bihar, Patna.
- Respondents

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Appearance :

For the Appellant : Mr. Rajesh Kumar Pandey, Advocate
Mr. Narayan Singh, Advocate

For the Respondents : Mr. Binay Kumar Pandey, AC to GA 3

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 27-11-2015

The delay in filing this appeal is condoned.

Heard learned counsel for the appellant who was the unsuccessful writ petitioner and the learned counsel for the State.

With consent of the parties, this appeal is being heard and disposed of at this stage itself.

Pursuant to our earlier directions, a counter affidavit has been filed by the Director, Secondary Education, Bihar, Patna. The writ petitioner appellant was duly selected as Swayam Sevika. Later on, her appointment has been cancelled which was the subject matter of the writ petition. The only ground given for cancellation of the appointment was that, she had given certificates to show that she had done Madhyama from the Bihar Sanskrit Sikhsha Board. This was held not equivalent to Matriculation which was the minimum qualification required. The petitioner challenged this position before the learned Single Judge unsuccessfully. When the matter was taken up in this Intra Court Appeal before us, we directed the Director, Secondary Education to himself swear an affidavit in this regard, as the stand being taken was that matriculation can be done only from either the Bihar School Secondary Education Board or the Central Board of Secondary Education and none else. A counter affidavit now has been filed and paragraph 10 and 11 of which reads as such:

“10. That in this context it would be relevant to

state here that Education Department Govt. of Bihar took a policy decision dated 11.01.1999 contained in Memo No. 36 by which the degree of Madhyama obtained from Bihar Sanskrit Siksha Board has been treated to be equivalent to Matriculation.

11. That this fact is also finds confirmed from the letter no. 5218 dated 02.08.2013 sent by the Secretary of the Bihar Sanskrit Siksha Board, Patna addressed to the Special Director, Secondary Education, Bihar, Patna.”

In view of the specific stand taken by the State itself and that too by the Director, Secondary Education, Government of Bihar, that Madhyama granted from Bihar Sanskrit Sikhsha Board, which again is a governmental body, is equivalent to matriculation, the controversy is put to rest.

We, accordingly, have no option but to set aside the judgment of the learned Single Judge and allow the appeal setting aside the order of writ petitioner/appellant's termination. She would be reinstated in service with full back remuneration and the continuity would be maintained for all practical purposes. Any remuneration that is due to her would be paid to her within one month of production of a

copy of this order and her joining has to be accepted immediately. The responsibility of timely joining and for payment would be upon respondent no. 8, the Block Education Extension Officer, Gopalpur, District – Bhagalpur.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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