

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23566 of 2013

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Dilip Chaudhary Son Of Late Ganaur Chaudhary Resident Of Village
 Bagmusa, P.O. Hajipur, District Vaishali Petitioner

Versus

1. The State Of Bihar
 2. The Director, Primary Education, Bihar, Patna
 3. The District Education Officer, Vaishali
 4. The District Program Officer (Establishment), Vaishali
 5. The Civil Surgeon-Cum-Chief Medical Officer, Vaishali (Hajipur)
 6. The Block Education Officer, Hajipur, Vaishali

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sri Krishna Ranjan, Advocate
 Mr. Vasant Vikas, Advocate
 For the State : Mr. Rajesh Kumar, AC to GP 28
 For the SSC : Mr. Kamla Kant Upadhyaya, Advocate
 Mr. Chandra Bhushan Das, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
 PRATAP SINGH**
 ORAL ORDER

4 07-12-2015 Heard learned counsel for the petitioner and the State as
 well as learned counsel appearing on behalf of the Staff Selection
 Commission.

The petitioner seeks quashing of the order dated 31.10.2013
 passed by the District Programme Officer (Establishment),
 Vaishali cancelling his appointment from the post of Assistant
 Teacher.

The petitioner submits that his appointment has been
 cancelled on the premises that he is disabled to the extent of only
 30% whereas as per Government circular, minimum 40%
 disability is required for appointment under Physically
 Handicapped category.

It appears from the counter affidavit filed on behalf of respondent No.7, the Staff Selection Commission, as well as report furnished under Right to Information Act that the petitioner was appointed under Scheduled Caste Category. The petitioner had also incidentally furnished Handicapped certificate. There is no material on record to come to the conclusion that the petitioner was appointed under Physically Handicapped Category.

In this view of the matter, the entire exercise of examination of the petitioner's disability certificate did not much have relevance in the facts and circumstances of the case. The petitioner has rightly relied upon a decision of this Court dated 1.12.2014 passed in C.W.J.C. No.1722 of 2014 (Ramesh Kumar Suman vs. The State of Bihar & Ors).

In the result, this writ application succeeds. The impugned order, dated 31.10.2013 passed by the District Programme Officer (Establishment), Vaishali, by which the appointment of the petitioner as Assistant Teacher has been cancelled, is set aside. The respondents are directed to reinstate the petitioner on service forthwith.

(Samarendra Pratap Singh, J)

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