

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3994 of 2008

Runna Devi, wife of Shri Rajesh Kumar Shukla, resident of village- Mamarakha,
Police Station- Malahi, District- East Champaran

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Rural Development Department, Govt. of Bihar, Patna
2. The Secretary, Rural Development Department, Govt. of Bihar, Patna
3. The Director, Panchayat Raj Directorate, Bihar, Patna
4. The District Magistrate-cum- Collector, East Champaran, Motihari
5. The Sub Divisional Magistrate, Areraj, Sub Division Areraj, East Champaran
6. The Block Development Officer, Areraj Block, Areraj, East Champaran
7. The Sarpanch, Gram Panchayat Raj, Mamarakha Tola Bhaiya, East Champaran
8. The Panchayat Sachiv, Gram Panchayat Raj, Mamarakha Tola Bhaiya, East Champaran
9. Kavita Devi wife of Sri Nawal Sah, resident of village- Mamarakha, P. S. Malahi, District- East Champaran

.... Respondents

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar No.1
Mr. Rana Ranvijay Pratap
For the Respondent/s : Mr. AC to GP-4
Mr. Dhananjay Kumar 2.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 20-04-2015

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Heard Sri Sanjeev Kumar no.1, learned counsel for the petitioner, learned AC to GP-4 as well as Sri Dhananjay Kumar no.2, learned counsel, who has appeared on behalf private Respondent no.9.

2. The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for directing the Respondents to select/appoint/employ her on the post of Gram Katchhari Sachiv in the Gram Panchayat Raj, Mamarakha Tola Bhaiya in the Areraj Block within the district of East Champaran. The



petitioner has also prayed for cancelling the appointment/selection of private Respondent, who is Respondent no.9. It has been claimed that the petitioner had secured 94.29 % marks in Madhayama Examination conducted by Bihar Sanskrit Shiksha Board, Patna and pursuant to advertisement for Gram Katchhari Sachiv, she applied. Since the petitioner was having higher marks, initially her name was placed at Serial no.1 of the select list, however subsequently on the ground that the petitioner was not having Matriculation Certificate her case was ignored and in place of petitioner, Respondent no.9 was accommodated.

3. Learned counsel for the petitioner has placed heavy reliance on an order dated 31.01.2008 passed by a Bench of this Court in C.W.J.C.No.13905 of 2007. He submits that this Court vide Annexure-3 has held that there is no distinction in between Madhyama and Secondary (Matriculation Certificate). Taking aid on the order i.e. Annexure-3 to the writ petition, learned counsel for the petitioner has prayed for directing the Respondents to appoint the petitioner after cancelling appointment of Respondent no.9 as Gram Katchhari Sachiv.

4. In this case, a counter affidavit has been filed on behalf of Respondent nos. 4 to 6 as well as a separate affidavit has been filed on behalf of Respondent no.9. A plea has been taken by Respondent



State that in terms of Clause (5) of the advertisement, which was published for appointment of Gram Katchhari Sachiv, it was indicated that for appointment, qualification was secondary (Matric). According to learned counsel for private Respondent, since the petitioner was not having Matriculation Certificate, rather was having Madhyama Certificate issued by the Bihar Sanskrit Shiksha Board, Patna, Respondents after noticing the defect has corrected the same and since Respondent no.9 had secured second position, she was appointed.

5. Learned counsel for private Respondent has also produced an order passed by the same Bench on 03.11.2009 passed in C.W.J.C.No.13836 of 2009 and submits that same Bench, who had passed order i.e. Annexure-3 to the writ petition, has held that certificate of Madhyama was equivalent to Matriculation Certificate, but it was clarified that he has not directed for cancelling any appointment.

6. The Court is of the opinion that once in the advertisement, specific qualification was prescribed, there was no reason for entertaining any application of the applicants, who were not having requisite qualification as per the advertisement. Entertaining such application was otherwise violative of Articles 14 and 16 of the Constitution of India, since by not inviting application from the persons having Madhyama Certificate it had deprived other similarly

situated persons to apply for the same post. Since as per advertisement, Respondent no.9, having requisite qualification had applied and having higher marks in the category of candidates having Matriculation Certificate, was rightly appointed. The case of the petitioner was rightly ignored as she was not having requisite qualification as per Advertisement i.e. Annexure-A to the counter affidavit.

7. I do not find any ground to pass any positive order in favour of the petitioner. The writ petition stands dismissed.

(Rakesh Kumar, J)

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