

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22637 of 2013

Sumitra Kuamri, wife of Ram Ayodhya Prasad, resident of village-
Rakashiya, P.S. Dulhin Bazar, District-Patna.

.... Petitioner/s

Versus

- 1.The State of Bihar through the Principal Secretary, Human Resources
Development Department, Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The Collector of the District, Patna.
4. The Block Development Officer, Dulhin Bazar, Patna.
5. The District Education Superintendent, Patna.
6. The Mukhiya of Gram Panchayat Raj, Achhua Rakashiya under Block
Dulhin Bazar, District-Patna.
7. The Panchayat Secretary of Gram Panchayat Raj, Achhua Rakashiya
under Block Dulhin Bazar, District-Patna.
8. The District Teachers Employment Appellate Authority, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR
TRIPATHI

ORAL ORDER

3 12-01-2015 After having given patient and extensive hearing to the learned counsel for the petitioner and the State, this Court comes to a considered opinion that it is not the duty of the Court in exercise of power under Article 226 of the Constitution to interfere with the order which does not suffer from any legal vice.

The Court has again to say this for the reason that Annexure-29 dated 30th January, 2013 came to be passed by the Principal Secretary, Department of Education, Government of Bihar on a direction issued by a Bench of this Court in a previous writ application. The issue was whether the previous incumbent could be removed from the post of Panchayat teacher for not having obtained Intermediate degree within 33 months. After many deliberations and declaration made by the High Court the State of Bihar issued a Circular that any such persons who were removed on such ground were required to be restored back to service even if they obtained the Intermediate decree at a later date.

The petitioner was appointed against the vacancy caused by Sangeeta Kumari's removal. If Sangeeta Kumari acquired judicial and legal right to be reinstated back and she was reinstated, then obviously the petitioner will have to make way for

her and she cannot have right to continue on the post of Panchayat teacher because appointment was made against vacancies and not on the whims and the demand of the individuals for such adjustment.

This is exactly what the Principal Secretary has held in the order impugned. Since this Court does not find any infirmity with the rationale and reasoning given by the Principal Secretary by refusing to give any kind of indulgence or leeway to the petitioner, the said order cannot be termed to be illegal or illogical requiring interference.

Since Annexure-29 is in conformity with the declaration made by the High Court followed by the policy of the State Government in furtherance of the implementation of such direction, this petitioner cannot get any relief by interfering with Annexure-29.

This writ application is dismissed for the reasons indicated above.

(Ajay Kumar Tripathi, J)

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