

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.350 of 2013

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Kusum Devi W/o Late Jailal Sah R/o Village-Dostiya Tola, P.S.- Sonbarsa,
District- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar through Secretary Education Department, New Secretariat, Bihar Govt., Patna
2. The Director, Primary Education Education Department, New Secretariat, Bihar Govt., Patna
3. The District Magistrate, Sitamarhi
4. The District Programme Officer, Sitamarhi
5. The District Programme Officer, Establishment, Sitamarhi
6. The Block Development Officer, Block Sonbarsa, District- Sitamarhi
7. The Block Education Officer, Sonbarsa, Sitamarhi
8. The Panchayat Secretary Gram Panchayat Raj Bishanpur Adhar, Block- Sonbarsa, District- Sitamarhi
9. The Mukhiya, Gram Panchayat Raj Bishanpur Adhar, Block- Sonbarsa, District- Sitamarhi
10. Veena Kumari W/O Dilip Kumar R/O Village- Arariya, P.O.- Arariya, P.S.- Kanhauli, District- Vaishali

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. ASHOK KUMAR JHA, Advocate

For the Respondent/s : Mr. SUNIL KR. MANDAL, SC-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-09-2016

Heard Mr. K.N. Singh, learned counsel for the petitioner,
Mr. S.K. Mandal, learned SC-3 for the State and Mr. Shashi Bhushan
Kumar for the respondent no. 10.

The petitioner is aggrieved by the order dated 29.11.2012
passed by the District Teachers Appointment Appellate Tribunal,
Sitamarhi in Case No. 27 of 2012/62 of 2009 whereby the
appointment of the petitioner to the post of Panchayat Teacher has
been cancelled.

Two grounds have been mentioned by the appellate authority to set aside the appointment, namely:

- (a) The petitioner was under age; and
- (b) The petitioner did not hold the educational qualification as prescribed under Rule 8(2) of the Bihar Panchayat Teachers (Appointment and Service Conditions) Rules, 2006 for being appointed as a Panchayat Teacher.

I have heard learned counsel for the parties and I have perused the records.

While arguments have been advanced to justify the age aspect of the matter, it is not in dispute that the petitioner obtained a Madhyama qualification from the Bihar Sanskrit Shiksha Board and her Up-Shastri qualification from the Kameshwar Singh Darbhanga Sanskrit University which is manifest from the documents appended at Annexure-1 to the writ petition. Dr. K.N. Singh in reference to the letter of the Commissioner cum Secretary, Human Resources Development Department dated 22.9.2006 has endeavoured to argue that a degree of Up-Shastri from the Bihar Sanskrit Shiksha Board has been recognized by the Department but even such argument would not come to the aid of the petitioner because the degree of Up-Shastri of the petitioner is not from the Sanskrit Shiksha Board rather it is obtained from the Kameshwar Singh Darbhanga Sanskrit University. Further in view of the Division Bench judgment of this Court since reported in **2009(2) PLJR 213 (Parwej Alam vs. State of Bihar)** in

which an issue whether a degree of Molvi or Up-Shastri from a recognized institution would satisfy the educational qualification came up for consideration and the Division Bench in consideration of the relevant rules has in reference to the Bihar Panchayat Prathmic Shikshak (Amendment) Rules, 2008, concluded that a degree of Up-Shastri is not one of the recognized degrees for such appointment.

In the present case the matter is even worse for the degree so relied upon by the petitioner to satisfy the requirement of an intermediate qualification, is not a degree recognized under the circular of the Human Resources Development Department brought on record vide Annexure-11 series.

In the circumstances where the petitioner has failed on the educational qualification itself, I do not deem it necessary to enter into the other issues raised in the case. The writ petition is dismissed accordingly.

(Jyoti Saran, J)

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