

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1564 of 2014

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1. Chandula Kumari Wife Of Shri Sadanand Mandal Resident Of Village -
Usmanpur, P.S. Kharik, District - Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department Of Social Welfare, Govt. Of Bihar, Patna
2. The District Magistrate, Bhagalpur
3. The Divisional Commissioner, Bhagalpur Division, Bhagalpur
4. The Block Development Officer, Kharik, District - Bhagalpur
5. The Child Development Project Officer, Kharik, District - Bhagalpur
6. The Mukhiya, Gram Panchayat Raj, Usmanpur, Block - Kharik, District - Bhagalpur
7. The Panchayat Secretary, Gram Panchayat Raj - Usmanpur, Block - Kharik, District - Bhagalpur
8. Shashikala Kumari, Wife Of Shambhu Kumar Mandal, Resident of Village - Usmanpur, P.S. Kharik, District - Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra
For the State : Mr. Pravin Kumar Verma, AC to SC 26
For Respondent no.8: Mr Ganpati Trivedi, Sr. Advocate
Mr Madan Mohan

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 01-02-2016

Selection of the private respondent on the post of Anganbari Sevika was challenged by the present petitioner primarily on the ground that she had been illegally given extra weightage of marks treating her degree of Sahitya Alankar at par with B.A. degree, which resulted in wrongful selection and illegal right to the petitioner to be selected. This aspect of the matter was gone into earlier and in a writ application filed, matter was sent back for consideration at the instance of the petitioner, a copy of which is Annexure-5. The

Divisional Commissioner has now taken up the appeal of the petitioner and came to a finding that the decision of the High Court with regard to qualification of Sahitya Alankar will be prospective and not retrospective.

With due respect to the learned Divisional Commissioner, Bhagalpur if only he had read the judgment rendered by the learned Single Judge, which has now been upheld right up till the Hon'ble Apex Court, he would have realized that the validity of the degree will relate back to the very date of its issuance or from the time such degree are being issued by the institution located at Deoghar. There is no element of prospectivity or retrospectivity involved in the said declaration of law.

If this be so, the rational and reasoning given by the Divisional Commissioner, Bhagalpur is required to be interfered with. The impugned order dated 7.3.2013 is quashed. As a consequence thereof, the appointment of the private respondent has to go.

Writ is allowed.

(Ajay Kumar Tripathi, J)

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