

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18961 of 2015

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1. Vivek Chandra Jha @ Vivek Jha S/o late Mithilesh Jha Resident of Village-Gandaul, Po Baghwa, P.s Mahishi, District Saharsa.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The District Magistrate, Araria.
3. The District Education Officer, Araria.;
4. The District Programme Officer (Establishment), Araria.
5. The Block Development Officer cum member Secretary Block Teacher Employment Committee Kursakanta, Araria.
6. The Headmaster, Upgraded Middle School, Barkurwa Kursakanta, Araria.
7. The Circle Officer, Mahishi, Saharsa.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

For the Respondent/s : Mr. Abbas Haider- Sc16

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 09-02-2016 The petitioner seeks quashing of letter No.1637, dated 1.7.2015, whereby the District Programme Officer (Establishment), Araria has directed the Block Development Officer, Kursakanta to ensure his resignation, as he has been appointed as Teacher on the basis of Educational qualification obtained from Nepal. The petitioner also seeks mandamus commanding the respondents to declare his resignation letter, dated 9.7.2015 from the post of Teacher, as contained in Annexure-10, as null and void as it has been obtained undue

coercion and duress.

The petitioner was appointed as Panchayat Teacher in Upgraded Middle School, Barkudwa, Kursakanta, Araria on 21.7.2014. The minimum qualification for appointment as Panchayat Teacher was Intermediate. It is not in dispute that the petitioner passed his matriculation examination from Vinayak Boarding Secondary School, Millsarea, Biratnagar, Nepal. He passed his Grade 12 Examination from the College of Business and Social Studies H S Scho, Biratnagar, Morang, Nepal. The petitioner was subsequently admitted as regular student of B.Com (Hons) for the session 2009-12 in Forbesganj College, Forbesganj, Araria and passed Bachelor of Commerce (Account) examination held in the year 2012 from B.N. Mandal University, Madhepura, Bihar.

The impugned order has been passed on two grounds; firstly that the educational certificate obtained from Nepal ought not to have been considered for appointment as Panchayat teacher. Secondly, it makes a reference to the order passed by this Court directing securing of resignation of such teachers.

On the other hand, the petitioner states that there is no letter of the government which prohibits consideration of matriculation or intermediate or equivalent certificates obtained from Nepal for



appointment to the post of Assistant Teacher. He next submits that there is no order of the High Court directing the respondents to ensure resignation of Assistant teachers who have obtained employment as Assistant teacher on the basis of educational qualification obtained from Nepal. He submits that the order of the High Court is with reference to those cases where appointments have been obtained on the basis of forged and fabricated certificates. He submits and rightly so, that there is no allegation that the certificates are forged or manipulated.

The main issue is whether the authorities could have considered the educational certificate obtained from Nepal for appointment to the post of Assistant teacher. The appointment of Assistant teacher in primary and upgraded Middle School is governed by the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 amended from time to time. As per Rule 8 of the Rules, the minimum qualification required for being appointed as Assistant Teacher is Intermediate. Rule 8 (Ka) states that such certificate should be of a school/college/Institute/Board which is duly recognized by the Government. It is not the petitioner's case that his matriculation certificate as well as Grade 12 examination certificate, obtained from Nepal, are recognized by the State of Bihar.

Further more, the merit list for selection of Assistant Teacher is to be prepared on the basis of marks secured in matriculation, intermediate and equivalent Board's examination recognized by the Government. Thus, the marks secured in Matriculation and Intermediate Examination passed from local Board of Nepal ought not to have been considered by the Selection Committee while preparing merit list of candidates. Thus, I do not find any error in the letter dated 1.7.2015 of District Programme officer, Araria seeking petitioner's resignation, pursuant to which he ultimately resigned. This writ application is accordingly dismissed.

(Samarendra Pratap Singh, J)

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