

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9668 of 2013

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1. Meena Kumari W/O Nirbhay Roy Resident Of Village Dhamoura, P.S- Babubarahi, District- Madhubani, Bihar.

.... Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Human Resource Department, Patna.
2. The District Teacher Employment Appellate Tribunal, Madhubani.
3. The Director, Primary Education, Human Resource Development Department, Patna.
4. The District Magistrate, Madhubani.
5. The District Superintendent of Education, Madhubani.
6. The Block Development Officer, Madhepur
7. The Block Education Extension Officer, Madhepur
8. The Mukhiya Gram Panchayat Raj Sunder Birajit Madhepur, Madhubani.
9. The Panchayat Secretary, Gram Panchayat Raj Sunder Birajit, Madhepur, Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Jha, Advocate.

For the Respondent/s : Mr. Sudhanshu Shekhar, AC to GP 31.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-02-2016

Heard learned counsel for the petitioner and learned counsel for the State.

2. In the present writ petition, petitioner is challenging the order dated 21.12.2012 passed by the District Teachers Employment Appellate Tribunal, Madhubani (respondent no.2) in Case No.936 of 2012 by which the Tribunal has refused to grant relief to the petitioner.

3. This matter relates to appointment of second phase of Panchayat Teacher in Gram Panchayat Raj Sunder Birajit of



Madhepur. A notification for appointment of Panchayat Teacher was published in the newspaper inviting application from eligible candidate. Six posts were advertised, out of which two posts were reserved for female candidates, one for general category candidate and another is for EBC category candidate. Petitioner applied for the post of EBC category having 47% marks. The name of the petitioner did not appear in the provisional selection list. She filed an application on 31.12.2008 raising an objection that she had applied under EBC category vide receipt no.664 dated 17.8.2008, requested her name should be added in the final list. But as per counsel for the petitioner her name was not added in the final selection list nor she was called for counseling. Ultimately she has not been selected, same post is still vacant.

4. It appears from the order of the Tribunal that notices were sent to the Panchayat Secretary even thereafter she did not appear and extended co-operation in the disposal of the case, ultimately having no way out, the Tribunal decided the case on the basis of the merit of the case, arrived to a conclusion that the name of the petitioner was not appearing in the provisional merit list and petitioner had not filed an objection within seven days from the date of publication the list and on that score alone

application of the petitioner has been rejected.

5. Learned counsel for the petitioner has submitted that Tribunal has failed to consider the fact that objection was filed before Panchayat Secretary and Mukhiya on 31.12.2008 (Annexure-3) as it bears the signature of Mukhiya showing that after publication of provisional list the petitioner has not raised objection for her empanellement in the provisional selection list. As it appears that the Tribunal has not examined objection dated 31.12.2008 (Annexur-3) which purportedly shows his objection about none inclusion of his name, required for rectification and the Tribunal has no where discussed the objection.

6. In such view of the matter, the order dated 21.12.2012 passed by the Tribunal is set aside and the matter is remanded back to the Tribunal to verify the genuineness of the document from the original record as to whether she has filed objection within seven days as she has made claim that after publication of provisional selection list she filed an objection. The Tribunal will verify from the original record of Panchayat related to appointment of Teachers in second phase 2008 and will pass order in accordance with law within a period of three months from the date of receipt/production of a copy of this order. This Court is not giving any opinion about the genuineness of

application dated 31.12.2008. It is the Tribunal who has to verify the genuineness of the application.

7. Accordingly this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

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