

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7650 of 2013

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1. Pushpa Kumari Wife Of Bashistha Kumar Resident Of Village- Faridpur, P.O. Ratai Bazar, P.S. Shakurabad, Dist.- Jehanabad

.... Petitioner/s

Versus

1. The State Of Bihar Through The District Magistrate Araria
2. The Member, District Teachers Employment Appellate Tribunal Araria
3. The District Education Superintendent Cum Sub-Divisional Education Officer, Araria
4. The District Education Officer, Araria
5. The District Programme Officer, Araria
6. The Block Education Officer, Jokihat (Araria)
7. The Mukhiya Chakai, Jokihat (Araria)
8. The Panchayat Secretary Chakai, Jokihat (Araria)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rikesh Sinha,
Mr. Amulya Chinetra, Advocate.
For the State : Mr. Yogendra Prasad Sinha, AAG 15.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-04-2016

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

In the present writ petition challenge has been made to the order dated 14.12.2012 passed by the Member District Teachers Employment Appellate Tribunal, Araria in Case No.320 of 2012-2013.

Gram Panchayat Raj Chakai has issued an advertisement for appointment of Panchayat Teachers. In pursuance thereof



petitioner and others applied for the said post. One post was reserved for female scheduled caste. Petitioner and others were called for counseling. The Government has fixed the date of the counseling by issuing notice in the newspaper, in pursuance thereof petitioner and others participated in the counseling. Merit list was prepared where name of the petitioner is at sl.no.2. Altogether eight persons have applied for scheduled caste but it appears that altogether five excess teachers of Urdu were appointed in the first phase in the year 2006, were adjusted against second phase in 2008. Two posts were left for appointment but the Unit did not appoint any person and kept it vacant. Petitioner approached to the Appellate Tribunal and the Tribunal did not find any illegality in the preparation of the merit list but has recorded that in terms of the Government direction five teachers who were appointed in excess were adjusted in the vacancy issued in second phase and the Unit did not appoint any person from the panel. It does not stand to reason how five excess teachers appointed in 2006 have been adjusted against second phase of vacancies. Persons who have applied against the advertisement are waiting for the selection but for the reason best known to the



Government five posts were given to adjust five excess teachers of 2006 and so much so when two posts are vacant, appointing unit should have taken action in appointing person from the candidates applied in 2008 but not a single person has been appointed. Petitioner is a scheduled caste female candidate and one post has been reserved of SC candidate. It is the obligation of the State and the Unit, specifically towards scheduled caste female candidate, that vacancy should not be kept vacant, should solemnly be filled up from the scheduled caste candidate on merit.

This Court is of the view that two vacancies which were notified for second phase in 2008 must be filled from those who applied against the vacancy in second phase. Accordingly this Court directs the Panchayat Unit to hold the counseling specifically with regard to the scheduled caste female candidate and whoever is best candidate should be appointed on that post. This Court is not giving direction for the appointment of the petitioner but whoever has better marks should be accommodated from the scheduled caste female candidate.

Accordingly the order dated 14.12.2012 of the Appellate Tribunal is hereby set aside.

Accordingly with the aforesaid direction this writ petition
is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	
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