

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6391 of 2014

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Ranjana Kumari Wife Of Sri Sanjeev Kumar Resident Of Village + P.O. Jitwarpur
Chauth, Ward No. 5, District - Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Human Resources Development Department, Govt. Of Bihar, Patna
2. The Secretary, Human Resources Development Department, Govt. Of Bihar, Bihar, Patna
3. The Director (Primary Education), Human Resources Development Department, Govt. Of Bihar, Bihar, Patna
4. The District Superintendent Of Education, Samastipur
5. The District Programme Officer (Establishment), Samastipur
6. The Block Education Extension Officer, Warisnagar, Samastipur
7. The Panchayat Secretary, Gram Panchayat Raj - Satmalpur, Block - Warisnagar, District - Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Giri

For the Respondent/s : Mr. SC23 Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 26-04-2016

Heard learned counsel for the parties.

Annexure-1 is the order of the District Teachers Employment Appellate Tribunal, Samastipur, dated 24.02.2012. A direction was issued upon the authorities concerned to consider appointment of the petitioner as a Panchayat Teacher, because she comes within the physically handicapped category under the BC quota.

The issue before the tribunal was non-appointment or non-selection of the petitioner as a Panchayat Teacher, despite



having highest of marks. However, from the reading of the impugned order itself it is evident that the vacancy positions available for the said Panchayat was not an open ended position, but reservation had been provided for against each and every posts, which was required to be filled up by the Panchayat. It is also not a matter of dispute that as per the roster point, there was no vacancy position available for physically handicapped under the BC category. The reservation was available under the SC category.

If this be so, then, obviously, the District Teachers Employment Appellate Tribunal had exceeded its jurisdiction by directing the subordinate authorities of the Education Department to alter the roster position, which is not within their domain or jurisdiction.

Benefit of reservation will have to be provided to an eligible candidate strictly in terms of the policy and the statute in this regard. Employment is not required to be provided against a particular reservation roster point, merely because in yet another category there is no more meritorious person, who can be appointed.

Benefit of reservation will strictly accrue in terms of the vacancy position reserved and made available for the category of reserved candidates. Merely because certain vacancies remain unfulfilled it does not mean that other candidates from other categories are required to be accommodated and appointed on the

post.

The Court, therefore, will not pass any direction for enforcement or implementation of the order, dated 24.02.2012, passed by the District Teachers Employment Appellate Tribunal, Samastipur, as that would be doing violence even to the reservation policy relating to the physically handicapped, if no roster point is available for such vacancy.

Writ application has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

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