

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19541 of 2011

Sweta Kumari aged about 37 years Wife Of Mr. Arbind Kumar & Daughter Of Mr. Ram Naresh Prasad Singh At Present Posted As Acting Warden, Kasturba Gandhi Balika Vidhyalaya, Parvalpur, District-Nalanda And Permanent Resident Of Village-Chhoti Chariyani, P.O. & P.S.-Tharthari, District-Nalanda.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Human Resource Development Department, Government Of Bihar, Patna.
2. The Director, Secondary Education, Government Of Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The District Education Office Cum District Programme Officer, Sarwa Siksha Abhiyan, Nalanda.
5. The Block Education Officer, Parvalpur Block, District-Nalanda.
6. Jyoti Jigisha Daughter Of Mr. Uma Shankar Prasad Resident Of C/o Mr. Gopal Lal Das, Urmila Niketan, Near Bhagwati Sthan, Lalbagh, District-Darbhanga.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr. Parth Sharthi GA No. 4

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 31-08-2016

Heard Sri Arun Kumar, learned counsel for the petitioner ,
Sri Parthasarthy, learned GA No. 4 as well as Sri Pankaj Kumar

Sinha, learned counsel who has appeared on behalf of respondent no. 6.

The petitioner has invoked writ jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to grant the following reliefs:-

“A. To command the state respondents to quash the merit list put up on the notice board on 25-9-2011 of Kasturba Gandhi Residential Balika Vidhayalaya, Parvalpur, District - Nalanda, which has been prepared to select the warden of the school in violation of the selection criteria as stated in the paper publication inviting applications for the post of warden to favour the respondent no. – 6 .

B. To command the respondents to stay the consequential transfer order issued vide memo no. – 1243 dated 24-10-2011 issued under the signature of the District Programme Officer, Sarwa Siksha Abhiyan, Nalanda and to allow the petitioner to continue on the post of Warden as she had been officiating as Acting Warden of the said school since 4-1-2011 vide letter no- 1337 dated 31-12-2010 and also due to the reason that she has been placed at serial no – 2 of the said merit list.

C. To command the respondents not to issue the appointment letter to the respondent no – 6, Jyoti Jigisha as per the merit list put up on the notice board of the above said school in contravention of the rules and selection criteria as stated in the newspaper advertisement inviting applications for the post of Warden for the above said school.

D. To command and direct the state respondents to re-examine / examine and verify the answersheets of the examination as conducted by the respondents for the selection of warden of the said school for the ends of justice and equality.

E. To command the state respondents to declare the selection of the respondent no – 6 as illegal / null and void as the respondent no – 6 has not submitted her required proof of date of birth and also of the fact that the petitioner was not given priority as a local candidate.”

Learned counsel for the petitioner by way of referring to the Annexure – 5 to the writ petition submits that selection list prepared for selection of Warden is illegal and liable to be set aside primarily on the ground that in the column of date of birth in respect of respondent no. 6 same was vacant. He has also submitted that certificate of the private respondent no. 6 was not properly verified and only with a view to accommodate respondent no. 6 the respondent/ State authority had prepared the selection list.

It is a fact that petitioner was appointed as Science Teacher and for the time being she was allowed to work as Warden in Kasturba Gandhi Residential Girls School, Parvalpur, Nalanda. Thereafter an advertisement vide Annexure- 3 was published for selection of Teacher / Warden. The petitioner applied and merit list



was prepared finally in which petitioner's name was placed at serial no. 2. It has been claimed that respondent no. 6 was illegally and incorrectly included in the merit list that too above the petitioner without the date of birth recorded in the selection list. On this very ground a prayer has been made to quash the selection list and allow the writ petition whereas in this case counter affidavit and supplementary counter affidavit have been filed on behalf of the respondents and a specific plea has been taken that the certificates of all candidates were thoroughly examined. In the written examination the petitioner had secured only 41.44 marks whereas respondent no. 6 had secured 46.13 marks and as such her name was placed at serial no. 1 in the selection list. It has been indicated that due to inadvertence date of birth of the respondent no. 6 was not recorded in the merit list i.e. Annexure – 5 to the writ petition. It has also been indicated that new Warden has already been appointed. The petitioner who was acting as Warden has been relieved and in her place the respondent no. 6 after selection has been posted. The petitioner has already been relieved. A specific stand has been taken that no irregularity or illegality has been committed.

The Court is of the opinion that only on the ground that in the merit list only date of birth was not incorporated regarding respondent no. 6 who obviously had secured higher marks than the

petitioner no relief can be granted to the petitioner. I do not find any ground to pass any favourable order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	05-09-2016
Transmission Date	N.A.