

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.771 of 2012

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Nila Kumari, D/O Sri Laleshwar Prasad Yadav, Resident of Village - Jhingwa, Gram Panchayat - Harari, Block - Marauna, P.S. - Marauna, District - Supaul. Terminated from the post of Panchayat Teacher from Primary School, Kuyatol, Gram Panchayat, Harari, Block - Marauna, District - Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Magistrate, Supaul.
5. The District Education Officer, Supaul.
6. The Block Development Officer, Marauna, District - Supaul.
7. The Block Education Officer, Marauna, District - Supaul.
8. The Panchayat Teachers Selection Committee, Gram Panchayat - Harari, Block - Marauna, District - Supaul.
9. The Mukhiya, Gram Panchayat - Harari, Block - Marauna, District - Supaul.
10. The Panchayat Secretary, Gram Panchayat - Harari, Block - Marauna, District - Supaul.
11. The District Teachers Selection Appellate Authority, Supaul.
12. Anita Kumari, Wife of Sri Ram Naresh Yadav, Resident of Village + P.O.- Baskhora, P.S. Marauna, District- Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Advocate
For the Respondent-State : Mr. Amit Bhushan, AC to GP-17
For the Private Respondent : Mr. Vishwajeet Mishra, Advocate
Mr. Manish Kumar, Advocate
Mr. Rohit Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-08-2016

Heard Mr. Amrit Abhijat, learned counsel appearing for the petitioner, Mr. Amit Bhushan, learned Assisting Counsel to Government Pleader No.17 for the State and Mr. Vishwajeet Mishra, learned counsel appearing for the private respondent.

The petitioner is aggrieved by the order dated 27.9.2011



passed by the District Teacher Employment Appellate Authority, Supaul (hereinafter referred to as the 'Appellate Authority') in Case No.44 of 2011 and Case No.51 of 2011, whereby the appeal filed by the petitioner has been dismissed. The 'Appellate Authority' while dismissing the case of the petitioner, has directed for consideration of the case of the private respondent for appointment and following which she has been appointed and continuing on the post.

The facts of the case briefly stated is that a selection process was initiated vide Annexure-A to the counter affidavit of respondent no.12 in the year 2006 under the Bihar Panchayat Elementary Teachers (Appointment and Service Condition) Rules, 2006 (hereinafter referred to as 'the Rules'). The petitioner, the private respondent and some others filed their applications. The petitioner was appointed. Her appointment was questioned by the private respondent on grounds that she was under age and her appointment was terminated by the Panchayat Secretary vide order dated 20.2.2008 present at Annexure-4. The petitioner questioned her termination before this Court in CWJC No.5378 of 2008 and while the writ petition was pending that the petitioner also filed complaint before the 'Appellate Authority' giving rise to Case No.44 of 2011. On the other hand the private respondent also filed



complaint before the ‘Appellate Authority’ giving rise to Case No.51 of 2011 seeking appointment to the post. The writ petition was disposed of vide Annexure-5 requiring a disposal by the ‘Appellate Authority’ and the ‘Appellate Authority’ while considering the rival claims has concluded in favour of the private respondent. The writ petitioner feeling aggrieved is before this Court.

The issue in contest in this writ petition is whether the appointment of the petitioner to the post of Panchayat Teacher has been rightly cancelled on ground that the petitioner was under age. It is undisputed that the advertisement was issued in the 2006. Rule 8 of ‘the Rules’ in so far as it explains the eligibility criteria of Panchayat Teacher at sub-rule(3) (ख) provides the eligibility clause and mandates that the candidate should be in between 18 years and 37 years on the 1st January of the year in which the appointment is being made.

The matriculation certificate of the petitioner is present at Annexure-2 and certifies her date of birth as 21.6.1988. Admittedly the appointment process having been initiated in the year 2006, in view of the stipulation present at rule 8(3) (ख) of ‘the Rules’ the petitioner had to be 18 years on 1st of January, 2006. Undisputedly the petitioner had not attained the age of 18 years on 1.1.2006

rather she was slightly above 17 and half years on the said date. The petitioner thus was underage and did not fulfill the age criteria for being appointed as Panchayat Teacher.

In the undisputed circumstances noted above, no infirmity can be found in the order of the ‘Appellate Authority’ requiring interference.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	01-09-2016
Transmission Date	N.A.