

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6770 of 2013

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1. Manju Devi W/O - Narayan Mahto R/O Village - Bela Natoli, P.O. - Bela Rauahi, P.S. - Baboobarhi, District - Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Primary And Secondary Education, Bihar, Patna
2. The District Programme Establishment Officer, Madhubani
3. The Block Development Officer, Ladania, District - Madhubani
4. The Panchayat Secretary, Gram Panchayat Raj Dalokhar, P.S. - Baboobarhi, District - Madhubani
5. The Mukhia, Gram Panchayat Raj Dalokhar, P.S. - Baboobarhi, District - Madhubani
6. The Member The District Teachers Employment Appellate Authority, Madhubani
7. Rita Kumari W/O - Pawan Kumar Posted As Newly Created Primary School Chornia At Mirzapur, Post - Mirzapur, P.S. - Ladania, Gram Panchayat Raj - Dalokhar, District - Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binit Kumar,
Mr. S. Kumar, Advocate.

For the State : Mr. S.K. Ranjan, AC to SC 15

For Respondent No.5 : Mr. Sanjay Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 20-05-2016 Heard the parties.

In the present writ petition, petitioner is challenging the order dated 12.2.2013 passed in Appeal No.892/08/11 by the Member District Teachers Employment Appellate Authority, Madhubani by which the Appellate Tribunal has rejected the appeal of the petitioner on the ground that she has not filed any application for her appointment as Panchayat Teacher as was informed by the Panchayat Secretary.



Learned counsel for the State has filed a counter affidavit where in paragraph 6 it has been specifically stated that application of the petitioner was received by the office of the Block Development Officer, Ladania the same was transmitted to Panchayat and her name is standing at sl.no.996 showing the name as Manju Kumari, wife of Narayan Singh in B.C. category.

Learned counsel for the petitioner submits that application was filed by the petitioner and the same was received in the said Panchayat from the office of the Block Development Officer, Ladania. He further submits that she appeared before the counseling on the receipt of notice from Panchayat Office so the finding of the Appellate Tribunal that petitioner had not filed the application is completely far away from the truth and is in-correct.

In view of the counter affidavit filed by the State it cannot be denied that petitioner had not applied for the post of Panchayat Teacher but wrongly and purposely the Appellate Tribunal recorded that she has not filed any application for her appointment.

In view of the stand of the State as well the material available on record the order dated 12.2.2013 passed in

Appeal No.892/08/11 is hereby set aside and matter is remanded back to the Appellate Tribunal for fresh consideration.

Before parting with this order, from the side of the State stand has been taken that petitioner belongs to the B.C. category and respondent no.7 is a candidate of MBC category. If that be so, there cannot be a fight between B.C. category and MBC category. They will have to struggle in their own category, not for other category. As for example, any person belonging to the reserve category can fight with the candidature of general category vice-à-versa is not applicable as a candidate of reserve category will have to confine in their own respective categories.

The Appellate Tribunal while deciding the issue will keep in mind the observations made hereinabove and also consider the roster point fixed by the State.

With the aforesaid observation this writ petition is allowed.

(Shivaji Pandey, J)

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