

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.518 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 16708 of 2013

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Umme Salmah Daughter Of Quazi Fazlur Rahman Resident Of Village- Sahjana
Kaprandia, P.S.- Azam Nagar, District- Katihar

.... Appellant/s

Versus

1. The State Of Bihar
2. Principal Secretary, Department Of Education, Government Of Bihar, Patna
3. Director, Primary Education, Bihar, Patna
4. Collector, Katihar, District- Katihar
5. District Education Officer, Katihar, District- Katihar
6. District Programme Officer, (Establishment), Katihar District- Katihar
7. Block Education Officer, Azam Nagar, District- Katihar
8. Mukhiya, Gram Panchayat Raj Mallickpur, Prakhand- Azam Nagar, District- Katihar
9. Secretary, Gram Panchayat Raj Mallickpur, Block- Azam Nagar, District- Katihar
10. Shamim Akhtar Son Of Sohrab Ali Resident Of Village/Mohalla- Naya Tola Irsadpur, P.S.- Azam Nagar, District- Katihar

.... Respondent/s

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Appearance :

For the Appellant/s : None

For the State : Mr. M. N. H. Khan, SC 1 with
Mr. Md. Irshad, AC to SC 1

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 31-08-2016

None has put in appearance on behalf of the appellant again today. In fact none appeared on behalf of the appellant even on 19th August, 2016. With the assistance of learned counsel for the State, we have gone through the order passed and find no illegality in the order of the learned Single Bench.

The appellant claimed that she is more meritorious having obtained 67.5% marks in Moulvi examination as against 66.6% marks obtained by respondent no. 10. The appellant on that ground challenged the appointment of respondent no. 10 by way of an appeal before the District Teachers Employment Appellate Authority and claimed that she should be appointed as Panchayat Teacher. The said application was allowed on 22nd June, 2009 wherein the appointment of respondent no. 10 was set aside and the appellant was directed to be appointed.

The appellant has invoked the writ jurisdiction of this Court for seeking a direction to implement the said order and to appoint her as Panchayat *Shiksha Mitra* under the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (hereinafter referred to as “2006 Rules”) and consequently as Panchayat Teacher. The learned Single Bench held that the appellant cannot be appointed as Panchayat *Shiksha Mitra* which post ceased to be in existence since 01.07.2006 and only those *Shiksha Mitra* who

were appointed prior to 01.07.2006 would continue as Panchayat Teacher. Since the appellant was not working as *Shiksha Mitra* on 1.7.2006, therefore, she cannot be appointed as Panchayat Teacher.

The appellant cannot be appointed against the post of Shiksha Mitra, the post which ceases to be in existence with effect from 1st July, 2006. Only those Shiksha Mitra who were working as on 1st July, 2006 would continue as Panchayat Teacher in terms of Rule 20(iii) of 2006 Rules. Therefore, we find that the order passed by the learned Single Bench that the appellant cannot be appointed cannot be said to be illegal in any manner.

We find that the reasoning given by the learned Single Bench cannot be said to be suffering from any illegality which may warrant interference in the present Letters Patent Appeal.

Accordingly, the Letters Patent Appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A