

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5110 of 2013**

Arti Kumari D/o Late Nandlal Prasad R/o Village- Mirzatola (Uttarwari Pokhra),  
Ward No.6, District- West Champaran (Bettiah). .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director, Primary Education, Government of Bihar, Patna
3. The District Education Officer, West Champaran (Bettiah)
4. The Block Education Officer, Baria West Champaran at Bettiah
5. The Panchayat Secretary, Panchayat Raj Suryapur Block- Baria, District- West Champaran at Bettiah
6. The Mukhiya, Panchayat Raj Suryapur Block- Baria, District- West Champaran at Bettiah
7. Sunita Devi W/o Akhilesh Prasad R/o Village- Tathwanandpur Naukatola, P.O.- Tathwanandpur, P.S.+Block- Baria, District- West Champaran at Bettiah.

.... Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Sunil Kumar Singh, Adv.

For the Respondent/s : Mr. Neelam Prasad, AC to GP-25

**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 28-06-2016**

Heard learned counsel for the petitioner and learned  
counsel for the State.

The matter relates to second phase of appointment of  
Panchayat Teacher.

The petitioner belongs to the O.B.C. category. An  
advertisement was published for appointment of Panchayat Teacher  
in Panchayat Raj Suryapur, Block Baria, District-West Champaran.

The petitioner and others have applied for the post of  
Panchayat. The petitioner was holding 65.22% marks in  
Intermediate, but she was not selected and in her place one Sunita

Kumari, Respondent no. 7 was selected on the post of Panchayat Teacher against the O.B.C. vacancy.

The petitioner approached the Tribunal raising grievance that she has illegally been deprived even though she is better qualified than Respondent no. 7, but on the basis of wrong certificate Respondent no. 7 has been accommodated.

The Tribunal asked the Panchayat Secretary to assist and produce the original records. Repeatedly the Tribunal has given chance. When the Panchayat Secretary failed to produce the original records, the Tribunal fed up with the action of the Panchayat Secretary, rejected the application of the petitioner, it does not stand to reason when the Tribunal was fed up with the action of the Panchayat Secretary cannot be a ground to reject the application of the petitioner.

The reason assigned by the Tribunal is per se illegal, arbitrariness and not sustainable in law. Accordingly the order dated 28.11.2011 is set aside, matter is remanded back to the Tribunal with a direction to give notice to the concerned persons, decide the case in accordance with law. The Panchayat Secretary is directed to produce the original records before the Tribunal. In failure to produce the same, it will be treated to have committed a Court of contempt and the Court will be forced

to initiate a contempt proceeding against the Panchayat Secretary.

With the above observation/direction, this petition is allowed.

As it is an old matter, the Tribunal is directed to complete the whole process within a period of six months from the date of receipt/production of a copy of this order.

**(Shivaji Pandey, J)**

Mahesh/-

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