

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1320 of 2016
In
Civil Writ Jurisdiction Case No.7779 of 2015**

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Bharti Singh, W/o Dr. Subhash Singh, resident of village - Barheya, P.O. & P.S. Barauli, District – Gopalganj.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate, Gopalganj.
5. The District Programme officer, Gopalganj.
6. The District Education officer, Gopalganj.
7. The Block Education officer, Barheya, Barauli, Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Y. V. Giri, Senior Advocate
Mr. Nikhil Kumar Agrawal, Advocate
For the Respondent/s : Mr. Kumar Pankaj, AC to SC-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-05-2017

Seeking exception to an order dated 12.05.2016 passed by the Writ Court in CWJC No. 7779 of 2015; this appeal has been filed under Clause X of the Letters Patent.

Petitioner claims to have appointed as an Assistant Teacher in Shri Ram Swarup Singh Project Girls High School, Barheya, Barauli in the district of Gopalganj. She said to have been appointed in the faculty of Home Science. She has retired on attaining



the age of superannuation on 30th July, 2014 and she had filed the writ petition seeking quashment of a show cause notice, whereby the recognition granted by the Director Secondary Education, Government of Bihar granting her the status of an Assistant Teacher was proposed to be withdrawn. During the pendency of the writ petition, as the recognition itself was cancelled on 06.06.2015, the amendment was made to the writ petition and challenge to the cancellation of recognition was also made. However, the learned Writ Court having dismissed the writ petition, this appeal has been filed under Clause 10 of the Letters Patent.

Sri Y. V. Giri, learned Senior Counsel, appearing for the petitioner, invited our attention to the order dated 16.08.2012, Annexure-9, the recommendation made by the Cabinet for granting a recognition on the post of an Assistant Teacher in Home Science and the observations made by the Committee to say that the petitioner was one of the teachers in the faculty of Home Science and was entitled for recognition in support of his contention.

However, learned counsel for the State Government invites our attention to the report submitted by the three-member enquiry committee and the fact that there were only eight sanctioned posts of Assistant Teacher, Home Science was not a faculty within the sanction granted and in not granting the recognition to the petitioner to



the post of Assistant Teacher, no error has been committed.

We find that the learned Writ Court, in a detailed order passed, has gone into various aspects of the matter, has taken note of the report submitted by the three-member enquiry committee and after going through the various aspects of the matter, in paragraphs 11 and 12 has recorded the finding in the following manner:

“11. After having gone through the various annexures and documents and the clarification issued by the Director with regard to the various teachers, the subjects against which they are working, there cannot be any dispute that the number of sanctioned posts of teachers in such school are only 8. The 9th position is occupied by the Headmaster or Headmistress and all along there is consistent evidence that the petitioner was appointed on the 9th post which is not a sanctioned post by the State Government. This finding had emerged in the report of the Three Man Committee. Based on the same Annexure-7, came to be issued rejecting her claim. Under some mistaken impression, Annexure-9 was issued in favour of the petitioner but when it came to the knowledge of the authorities, after giving adequate opportunity and show-cause to the petitioner, the final decision contained in Annexure-15 has been issued, which is now subject matter of challenge.

12. Having given an anxious consideration to the submissions and the materials, the Court does come to a considered opinion that the reasons assigned by the Director, Secondary Education, Government of Bihar in Annexure-15 is based on actual state of affairs with regard to the sanctioned posts as well as the status of the subject of Home Science.”



The aforesaid finding recorded by the learned Writ Court being a finding of fact based on due appreciation of the entire material that came on record, we see no reason to make any indulgence into the matter. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

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