

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.382 of 2015

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Sangita Kumari W/o Sanjay Kumar, resident of Village- Madwan, P.S. Karja, District- Muzaffarpur at present posted as Warden, Kasturba Gandhi Balika Vidyalaya, Motihari, Govt. Middle School Chandrahiya, P.S.- Motihari Muffasil District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Department of Primary Education, Govt. of Bihar at Patna.
 2. The District Magistrate, East Champaran.
 3. The District Programme Officer, Primary Education and Sarva Siksha Abhiyan, Bihar Education Project, District - East Champaran.
 4. The Block Education Officer, Motihari (Rural).
 5. The Headmaster-cum-Sanchalak, Kasturba Gandhi Balika Vidyalaya, Motihari.
- All (nos. 2 to 5) at and P.O.- Motihari, P.S.- Motihari Town District- East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar
Sri Uma Kant Shukla

For the Respondent/s : AC to SC – 19

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 20-01-2017 Heard Sri Uma Kant Shukla, learned counsel , assisted by Sri Shakti Suman Kumar, learned counsel for the petitioner and learned AC to SC No. 19.

The petitioner has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India with two prayers. Firstly it was prayed to direct the respondents to allow the petitioner to appear in the examination which was scheduled to be held in the month of January 2015 for selection / appointment on the post of Warden –cum- teacher in Kasturba



Gandhi Balika Vidyalaya after granting relaxation of age. It is the case of the petitioner that since last eight years she was discharging duty as Warden in the school. It has been claimed that she started discharging duty as Warden since 2006 and finally vide order contained in Memo No. 338 dated 9.9.2011 the District Programme Officer/ respondent no. 3 on the basis of decision taken by the selection committee selected the petitioner to function as Warden till selection is made on regular basis. It has been claimed that after the order i.e. Annexure- 3 dated 9.9.2011 the petitioner has regularly discharged the duty however in the year 2015 an advertisement was made for regular appointment of Warden –cum- teacher in which the upper age limit for female general category was fixed as 40 years. It was submitted by learned counsel for the petitioner that petitioner on the date of advertisement had crossed 40 years and since she was functioning the petitioner was entitled to get age relaxation however same was not considered. It has been accepted by learned counsel for the petitioner that pursuant to the said advertisement selection process has already been completed.

Keeping in view the fact that as per advertisement i.e. Annexure -5 selection process has already been completed and the petitioner had crossed the age limit there is no need to pass any



favourable order. However, the court is of the opinion that if the petitioner had worked as Warden for several years the period, during which she had legally functioned as Warden she petitioner was entitled to get relaxation of age.

It goes without saying that if subsequent advertisement is issued, the petitioner may claim for granting age relaxation for the period during which she had rendered the service as Warden in Kasturba Gandhi Balika Vidyalaya.

The writ petition stands disposed of.

(Rakesh Kumar, J)

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