

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15868 of 2009

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Sabita Kumari, Wife of Dhananjay Kumar Mridul Resident of Village- Ghanshyam
Bigha, P.O.- Birra, P.S.- Makhdumpur, District- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Jehanabad.
3. The District Development Commissioner, Jehanabad.
4. The District Superintendent of Education, Jehanabad.
5. The Block Development Officer, Makhdumpur, P.S.- Makhdumpur, District-
Jehanabad.
6. The Block Education Extension Officer, Block Office, Makhdumpur, District-
Jehanabad.
7. The Mukhiya, Sumera Gram Panchayat, Sumera, P.S.- Makhdumpur, P.O.-
Birra, District- Jehanabad.
8. The Panchayat Secretary, Sumera Gram Panchayat, P.O.- Birra, P.S.-
Makhdumpur, District- Jehanabad.
9. The District Teacher Employment Appellate Tribunal, Jehanabad.
10. Nitu Kumari daughter of Sri Shiv Kumar Singh, resident of Village- Maheba,
P.O. Chariyari, P.S. Makhdumpur, District- Jehanabad.
11. Shashi Bhushan Kumar Son of Sri Ram Sevak Singh, Resident of Village-
Kakhaura, P.O. Pandaul, P.S. Sakurabad, District- Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. R. K. Sinha, Mr. Umesh Prasad Verma and Mr. Satyendra Prasad, Advocates
For the Respondents No.10 & 11	:	Mr. Jogendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 27-02-2017



Heard learned counsel for the petitioner and the respondents no. 10 and 11.

The petitioner had initially moved the Court being aggrieved by the order dated 08.10.2009 passed by the District Teachers Employment Appellate Authority, Jehanabad (hereinafter referred to as the 'Authority') in Dispute Case No. 335 of 2009, by which the vacancy of the petitioner and another person of the year 2006 was directed to be considered in the year 2008. However, subsequently, the two persons who were appointed and who were removed from service, being respondents no. 10 and 11, had also moved this Court and on remand to the Authority, their disengagement was set aside and they were reinstated by order dated 04.10.2010 passed by the Authority in Dispute Case No. 403(04) of 2010.

Learned counsel for the petitioner submitted that she has better percentage marks compared to the respondent no. 10 but still she had not been selected whereas, respondent no. 10 has wrongly been selected. It was submitted that even respondent no. 11 is the son of the then Panchayat Sachiv and, thus, clearly there was favoritism and nepotism. Learned counsel further submitted that even the case of the respondents is that notice for counselling was sent by UPC but the said mode is not the valid mode for sending notice as



has been held in the case of **Chitranjan Kumar Singh vs. State of Bihar** reported as **2010 (4) PLJR 183**.

Learned counsel for the respondents no. 10 and 11 submitted that in the 7th merit list prepared, they were at higher position since the petitioner did not turn up despite sending of notice under UPC.

Having considered the matter, this Court cannot uphold the contention that notice was sent under UPC moreso, in view of the fact that the petitioner admittedly has a better qualification compared to respondent no. 10 and further respondent no. 11, being the son of the then Panchayat Sachiv, who took part in the employment exercise, there being conflict of interest, the said exercise stands vitiated in the eyes of law.

The Court is conscious that after 2012, the untrained persons are not allowed to be employed, but since the matter has to relate back to the year 2006, when the appointments were made, such restriction cannot be applied in the case of the petitioner.

For the reasons aforesaid, the writ application stands allowed. The employment of respondents no. 10 and 11, on the post in question is set aside. Both the impugned orders of the Authority dated 08.10.2009 passed in Dispute Case No. 335 of 2009 as well as order dated 04.10.2010 passed in Dispute Case No. 403(04) of 2010



are set aside.

The respondents are directed to go ahead and complete the process of employment by proper notice to all concerned, including the petitioner, and thereafter preparing a merit list, in terms of the applications received in the year 2006. The process be completed within two months from the date of production of a copy of this order before the respondents no. 5 to 8.

(Ahsanuddin Amanullah, J.)

P. Kumar

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