

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1201 of 2015

IN

Civil Writ Jurisdiction Case No. 20197 of 2012

=====

Rani Kumari, W/o Ram Babu Singh, resident of Village - Tilak Tajpur, Block-Runnisaidpur, District - Sitamarhi, presently posted as Block Teacher in Upgraded Middle School, Parari, P.O.- Thagar Block - Aurai, District - Muzaffarpur.

.... Petitioner / Appellant

Versus

1. The State of Bihar.
2. The Director, Primary Education Department, Govt. of Bihar, Patna.
3. The District Magistrate, Muzaffarpur, District- Muzaffarpur.
4. The District Education Officer, Muzaffarpur, District- Muzaffarpur.
5. The Member, District Teacher Employment Appellate Authority, Muzaffarpur.
6. The District Programme officer, Establishment, Muzaffarpur.
7. The Block Education Extension officer, Aurai, District- Muzaffarpur.
8. Md. Manzar Alam, S/o Md. Esha, resident of village + P.O. - Gaus Nagar, P.S. - Runnisaidpur, District - Sitamarhi, Address for Correspondence At - Shahwajpur P.O.- Bhikhanpura, P.S.- Ahiyapur, District- Muzaffarpur.

.... Respondents / Respondents.

=====

Appearance:

For the Appellant/s : Mr. S.B.K. Mangalam and
Mr. Shashi Bhushan Singh, Advocates.

For the State : Mr. Mujtabaul Haque, GP 12 and
Mr. Vasant Vikas, AC to GP 12.

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 11-08-2017

Heard Mr. S.B.K. Mangalam, rather extensively. The Court appreciates the herculean effort which he has made to overcome the rightful decision dated 06.05.2015 passed by the learned Single Judge. He not only dismissed the Writ Application by upholding the order of the Tribunal but has also recorded that the appointment of the



appellant as a Block Teacher by the Block Education Officer was done by method foul which emerges from the documents available on the record which has been analyzed both by the Tribunal as well as the learned Single Judge.

2. The private respondent no. 8 and the appellant both were applicants for consideration of appointment on the post of a Block Teacher. The private respondent belonged to Physically Handicapped Category and had the highest marks in his category. However, by ignoring the said fact and only with the object of accommodating the present appellant by giving excessive and extra weightage over her actual marks of 48.11 and showing her to come within the Disabled Category she was appointed.

3. From a reading of the order of the Tribunal, it is evident that the Tribunal also called for original records, examined various registers and entries and came to a considered opinion that deliberate mischief was played to oust the private respondent from the post of Block Teacher and somehow muscle in the claim of the present appellant, who not only lacks merit but also does not belong to Physically Handicapped Category because there is no evidence and material to establish so.

4. The learned Single Judge also considered the submission which has been made before us as well, that for every post



50% reservation for female candidates is required to be made. This is nothing but an effort on the part of the appellant to divert, if not mislead, the Court from the real issue. The submission of 50% reservation is a misplaced kind of submission because neither a Panchayat or a Block or a Court is required to allow any kind of variation once the total vacancy position with roster clearance is forwarded to the authorities against which appointments are required to be made. The reservations are engrained in the roster clearance and no further reservation over and above the reservations already provided for, while working out the total vacancy is permissible or is required to be facilitated.

5. It is a clear case where the appellant was pushed into the system by the interested authority at the cost of the private respondent and her appointment cannot be sustained in the manner she had acquired the post which she does not deserve either on merit or on the so-called basis of belonging to Physically Handicapped Category under which she has been accommodated on purpose. Such dishonest kind of act on behalf of the appointing authorities calls for serious action against such authorities because employment on public post must have an element of fairness and satisfy the requirements of Articles 14 and 16 of the Constitution of India. The constitutional guarantee, which is a fundamental right, cannot be allowed to be



robbed by dishonest government servants.

6. The Court comes to a considered opinion that the Tribunal and the learned Single Judge were correct in holding that the respondent no. 8 was better placed and had a better right of appointment as a Block Teacher and it was for extraneous reasons that he was ousted and the appellant was accommodated.

7. No interference is warranted with the order of the learned Single Judge in any manner. The appellant is paying the price for her machination in begetting such an appointment.

8. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.08.2017
Transmission Date	N/A

