

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1873 of 2016

In
Civil Writ Jurisdiction Case No.7923 of 2013

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Asha Rani wife of Shri Shashi Bhushan Kumar, resident of Village- Hemjapur, P.O. Sheokund, District- Munger, Presently Assistant teacher, Arya Kanya Uchcha Vidyalaya, Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Director, Secondary Education, Bihar.
3. The Secretary, Bihar Karamchari Chayan Ayug, P.O. Veterinary College, Patna- 14.
4. The District Education Officer, Munger.
5. The Secretary School Managing Committee, Arya Kanya Uchcha Vidyalaya, Khagaria, District- Khagaria.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shrinandan Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 13-12-2017

Heard learned counsel for the parties.

The Court is satisfied with the reasons for delay of 7 days in preferring the appeal. Therefore, the delay is condoned.

I. A. No. 1846 of 2017 is allowed.



The matter is thereafter taken up on merit.

Writ Application of the present appellant was clubbed with yet another writ application and heard together and disposed off by a common order.

This is not the first round of legal battle. The appointment done on the post of a Maths-cum-Physical Teacher by the so called minority institution was subject to approval by the State Government. When the matter was placed earlier before the Director, Secondary Education, Government of Bihar, Patna, one of the infirmities in such appointment found by the Director was that at the time of her appointment as a Teacher, she was over-age. However, that reason for rejection of the claim of the appellant was taken care of in an earlier writ application, keeping precedence in mind that over-age may not come in the way in consideration for giving recognition to service of a Teacher of such kind.

When the matter was referred back to the Director for reconsideration, an order, dated 04.02.2013 now came to be passed by the Director, Secondary Education, rejecting her claim on the ground that since she was not a B.Ed., therefore, she did not have the requisite qualification to be appointed as Maths Teacher in the



school on the basis of a degree of B.P.Ed. from some institution situated at Nagpur.

There was a deliberate mischief played by the school in issuing an advertisement that they had a requirement of a Maths-cum-Physical Teacher. This was done to overcome the disqualification, which the appellant was suffering, in being appointed as a regular Maths Teacher, since she did not hold a valid B.Ed. Degree.

The reason, which has been provided by the Director, Secondary Education, Government of Bihar, Patna considering the rules and requirement in place for such appointment, is a correct view. So is the view also taken by the Learned Single Judge.

A via media had been adopted by the school while issuing the advertisement to accommodate the appellant by circumventing the provisions and the rules for such appointment. It was the mischief on part of the school management which decided her present fate.

The decision of the Learned Single Judge refusing to interfere with the decision of the Director, Secondary Education, Government of Bihar, Patna, cannot be said to be erroneous, because at the core of the issue was appointment of the appellant as a Maths Teacher and the degree of Physical Teacher, which was incorporated in the advertisement was only an eye wash.



Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

skm/-

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