

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1368 of 2013
IN
Civil Writ Jurisdiction Case No. 1839 of 2012**

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Subhadra Kumari Daughter Of Sarya Mandal Resident Of Village - Dhapri, P.O.
Warajor, P.S. Jhajha, District - Jamui

.... Appellant

Versus

1. The State Of Bihar through District Education Officer, Jamui
2. District Education Officer, Jamui
3. District Teacher Employment (Niyozan) Appellate Tribunal, Jamui through Its Member
4. Member, District Teacher Niyozan Appellate Tribunal Jamui
5. Block Development Officer, Jhajha
6. In Charge Head Master, Pugnaded Middle School, Khuri Paras, Jhajha, Jamui
7. Mukhiya, Gram Panchayat Raj Jamu Kharaiya, P.S. Shaiha, District - Jamui
8. Panchayat Secretary (Employment Officer) Gram Panchayat Raj Jamui Kharaiya, P.S. Shaiha, District - Jamui
9. Mina Kumari W/O Gore Lal Saw Resident Of Village And Post. Dabil, P.S. Khaira, District - Jamui
10. Satdeo Mandal Son of Naneshwar Mandal Resident of Rani Kura, P.S. Jhajha, District - Jamui
11. Seema Kumari Singh W/O Pankaj Kumar Singh Resident of Village - Nanjawara, P.S. Gidhaur, District - Jamui

.... Respondents

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Appearance :

For the Appellant : Mr. Rakesh Ranjan, Advocate

For the Respondents :

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-02-2017

Appeal is against the order dated 22.08.2013 passed by
the learned single Judge in C.W.J.C. No. 1839 of 2012.

The matter was considered. This appellant's
appointment as Panchayat Teacher was set aside by the District
Teachers Employment Appellate Tribunal, Jamui, because more
meritorious candidates' claim was ignored and in the manner in



which this appellant came to be accommodated is reflected in the order of the learned single Judge in following terms:

“This Court, however having perused the uncontroverted merit list and panel as contained in Annexure-A to the counter affidavit of Respondent no. 9 wherein the name of the petitioner has been clearly inserted between the name of two candidates, is fully satisfied that the Tribunal has committed no error in holding the appointment of the petitioner to be vitiated by malafide and fraud. Such a person could not have been allowed to continue in service.

The submission of the learned counsel for the petitioner that the private respondent no.9 had not appeared in counseling has to be only understood in the manner in which the petitioner was sought to be favoured for her appointment. The name of the petitioner was in the list of category of Unreserved Female for which there was a separate vacancy. The name of the petitioner was inserted in the panel of un-reserved female category between Sanju Kumari and Sima Kumari Singh at serial no. 20. In fact, all the serial numbers thereafter were changed in order to accommodate the insertion of the petitioner. On the other hand, the name of the respondent no.9 had figured as first candidate of the merit list of Backward Category Female Candidate.

As a matter of fact, if for sake of arguments this Court would believe that the petitioner's name was there in the panel even then there were many more



candidates other than the respondent no.9 who had higher marks in the merit list of the candidates of the Backward Category Female, namely, Yashoda Kumari, Kiran Kumari, Bipita Kumari Mayuri, Anju Devi, Rekha Kumari, Kumari Bandana, Kumari Chandra Prabha Bharti, Renu Kumari, Priyanka Kumari, Supriya Kumari, Mridula Kumari and Neha Kumari having marks between 67% to 79.22% whereas the marks of the petitioner was only 65.89%. It is thus very difficult for this Court to believe that all the aforesaid persons had not appeared in the counseling so as to facilitate the appointment of the petitioner.”

In view of the above finding, which only reiterates factual position emerging from the adjudication made by the Tribunal, the refusal of the learned single Judge to interfere with the said order cannot be said to be erroneous.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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