

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.285 of 2016

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Shakuntala Kumari Yadav, wife of Harischandra Yadav, resident of Village-Basahiya, PO.- Bhandar, Bhaya- Pachpakri, P.S.- Dhaka, District- East Champaran at Motihari.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
4. District Education Officer, East Champaran at Motihari.
5. District Programme Officer, East Champaran at Motihari.
6. Block Education Officer, Dhaka, East Champaran at Motihari.
7. Child Development Project Officer, Dhaka, East Champaran at Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate
For the Respondent/s : Mr. Durgesh Nandan, AAG-14

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-05-2017

Heard Mr. Manoj Kumar Singh, learned counsel appearing for the petitioner and Mr. Durgesh Nandan, learned Additional Advocate General No.14 for the State.

With the consent of the parties this matter has been heard with a view to its final disposal at the stage of admission itself.

The petitioner has filed this writ petition seeking, inter alia, a direction to command the respondents to appoint her on the post of Anganwari Sevika in Basahiya Ward No.16 under Bhandar Panchayat in the district of East Champaran.

The grievance of the petitioner stands noted in the order



recorded on 12.4.2017 and briefly stated is, that the petitioner ranked first in the selection process for appointment which was initiated pursuant to an advertisement published in the year 2013, a copy of the panel is present at Annexure-5 and supports the contention advanced on behalf of the petitioner. The matter reached the *Aam Sabha* and when an issue was raised as to whether the Matriculation certificate obtained by the petitioner from the Ministry of Education and Sports, Nepal would be valid. Guidelines were sought from the Department of Social Welfare and while the matter was pending that an amendment was incorporated in the guidelines for appointment to the post on 7.8.2015 and since clause 4.13 thereof provides that a panel would be valid only for a period of one year hence the respondents chose to scuttle the appointment process.

I have heard learned counsel for the parties and I have perused the records.

There is no dispute on facts that following a selection process the petitioner ranked first in the panel present at Annexure-5 and the only dispute is with regard to her matriculation certificate which she obtained from Nepal. It is again not in dispute that it is on the basis of same Matriculation certificate that the petitioner has appeared and succeeded in the Intermediate examination conducted by the Bihar Intermediate Education Council. Obviously unless the



Matriculation certificate obtained by the petitioner from Nepal Board was recognized by the Bihar Intermediate Education Council she could not have been allowed to appear in the Intermediate examination. For the lapse on the part of the respondents in completing the selection process that the petitioner is sought to be punished by facing another selection process and relying upon an amendment which came into force after the selection process was almost final and was put up before the *Aam Sabha* for final disposal.

It is taking note of the undisputed circumstances existing that this Court while framing issue required a supplementary counter affidavit and the stand taken stands discussed hereinabove where the respondents relying upon an amendment of 2015 have held the panel as lapsed. The respondents while opining as such, have fairly admitted at paragraph 6 of the supplementary counter affidavit that *Aam Sabha* was held on 16.3.2015 i.e. much prior to the amendment enforced vide letter No.3201 dated 7.8.2015 and when it was thought proper to seek guidelines on the qualification. Since there is not a whisper in the counter affidavit to contest the Matriculation qualification obtained by the petitioner from the Nepal Board the case of the petitioner cannot be scuttled on the basis of amendment which was enforced much later than the decision of the *Aam Sabha* dated 16.3.2015.



For the reasons so discussed, the respondents more particularly the respondent nos.5 to 7 are directed to take the selection process to its logical conclusion and issue orders of appointment bearing in mind the panel present at Annexure-5 within a period of four weeks from the date of receipt/production a copy of this judgment and order.

The writ petition is allowed. Let a writ of mandamus issue accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31-05-2017
Transmission Date	NA

