

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1583 of 2018

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S. M. Shakeel Chisty, S/o S.M. Qaiyoum, R/o Azad Lane, Brahmpura, P.S.-
Brahmpura District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Patna.
2. The Director, secondary Education, Bihar, Patna.
3. The District Education Officer, Muzaffarpur
4. The District Programme Officer, (Establishment), Muzaffarpur.
5. The Managing Committee, Abeda High School (+2), Muzaffarpur, through its Secretary.
6. The Head Master, Abeda High School (+2), Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha
For the Respondent/s : Mr. M. Pd. Yadaw-Gp23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 16-03-2018 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Petitioner has filed the present writ application for a
direction to the respondents to hold and declare appointment of
the petitioner which has been made by the authority competent
after following the due process of selection against sanctioned
and vacant post of Assistant Teacher.

The aforesaid declaration cannot be made by the Writ
Court in exercise of power of judicial review under Article 226
of the Constitution.

Learned counsel for the petitioner submits that similar



issue was examined by the various courts in writ petitions and LPA and as such the court may dispose of the writ petition with direction to the Director to take final decision with regard to approval of the service of the petitioner. In view of the fact that factual enquiry is involved in the matter of approval of the service of the petitioner and the Director is the competent authority to decide the issued of approval after scrutiny of the relevant records in terms of the statutory provisions as such the matter is remitted to the Director Secondary Education for appropriate decision in accordance with law after due scrutiny of the relevant records.

The court hope and trust that if the Director, Secondary Education has not decided the case of the petitioner for grant of approval till date, he will take appropriate decision in accordance with law within a maximum period of three months from today.

It is needless to state here that while taking the decision, the Director, Secondary Education is required to consider the decision of this court in C.W.J.C. Nos. 14248 of 2013, 668 of 2014, L.P.A Nos. 136 of 2015 and 1581 of 2015 and other decisions which may enlighten the Director in the matter of taking decision as to the approval. The court refrains



from passing any observation on the eligibility at the time of appointment or on the issue whether the subsequent acquisition of qualification entitles the petitioner for approval of the service and for payment of salary. It is up to the Director to consider the case on the scrutiny of the materials available on record in the light of the decision of this court mentioned hereinabove.

It is also needless to state here that consequential benefit arises from approval must reach the petitioner within a reasonable period preferably within a period of two months from such decision.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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