

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2796 of 2017

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Asfar Sayeed Son of Muzaffar Sayeed Resident of Mohalla- Noor -E Mahal,
H. No. 137, Taj Colony, Panchayati Akhara, P.S. Kotwali , District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary cum Commissioner, Secondary and Primary Education Government of Bihar, Patna.
2. The Director Secondary Education Government of Bihar, Patna.
3. The District Secondary Education Government of Bihar, Patna.
4. The Secretary Quasmi High School +2, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Md. Fakruddin Ali Ahmad, Advocate
		Mr. Arun Kumar Bhagat, Advocate
For the Respondent/s	:	Mr. Arvind Kumar, GP23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 23-02-2018 Heard learned counsel for the petitioner and the counsel appearing on behalf the State.

In the present writ application, the petitioner has prayed for a direction to the respondents to consider the case of the petitioner afresh after quashing the order contained in memo no. 463 dated 27.6.2014.

Learned counsel for the petitioner submits that the case of the petitioner was rejected on the ground of maximum age prescribed for appointment. He submits that prior to 2012 Rules there was no maximum age limit for appointment. He refers to 2008 Rules Clause -5 wherein it was indicated that in the case of trained teachers in first and second employment, the upper age



limit stands relaxed in view of the amended provision 2008 there was no upper age limit for appointment in minority institution.

In the present case, the respondents have filed counter affidavit wherein in para-6 and 10 the respondents have submitted that petitioner is not entitled to the benefit of 2012 Rules as he was appointed on 4.4.2012 whereas the notification came with effect from 3.7.2012, however, there is no averment in the counter affidavit that 2008 Rules is not applicable in the case of the petitioner and under the 2008 Rules there was no upper limit for appointment of trained teachers.

In view of the above, the court is of the considered view that the action of the respondent in rejecting the claim of the petitioner vide Annexure-5 as contained in Memo No. 463 dated 27.6.2014 is contrary to the law and appears to be passed without application of mind.

Under the aforesaid circumstances, the court is left with no option but to quash the memo no.463 contained in Annexure-5 dated 27.5.2015. As a result thereof, the respondents are required to consider the case of the petitioner in the light of amended Rules 2008 which is applicable in the case of the petitioner. Final decision in this regard may be taken within a



maximum period of sixty days and necessary follow-up order granting consequential benefit must be granted to the petitioner within a further period of two months from the date of receipt/production of a copy of this order.

With the aforesaid the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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