

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1605 of 2017

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Pankaj Kumar Jha son of Sri Kamal Nath Jha P.O. Laxmi Sagar, Chhapki,
Parri, Before Panchayat Bhawan, P.S. - Sadar, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Secondary Education, Education Department, Bihar.
3. The Deputy Development Commissioner-Cum-Chief Executive Officer, Zila Parishad, Darbhanga.
4. The District Magistrate, Darbhanga.
5. The District Programme Officer (Establishment), Darbhanga.
6. The Chief Executive-Cum-District Education Officer, Darbhanga.
7. The District Education Officer, Darbhanga.
8. The Chairman, Zila Parishad, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abinash Kumar
For the Respondent/s : Mr. Madanjeet Singh-Gp20

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 15-03-2018 Heard learned counsel for the petitioner and the counsel
appearing on behalf of the State.

Mr. learned counsel appearing on behalf of the petitioners
has drawn attention of this court to Annexure-9 the letter dated
07.10.2016 by which candidature of the petitioner has been
rejected.

Referring to the letter contained in Annexure-9 he
submits that a person who has passed TET is not entitled to age
relaxation in terms of letter contained in Annexure-9.

Learned counsel appearing on behalf of the petitioners
submits that on the date of holding TET examination in 2011 the
petitioner was eligible even in terms of age requirements and



after holding TET examination in 2011 for the first time the selection process for appointment of music teachers was started by the respondents in 2015.

In view of the Annexure-9 which is a public document, the respondents are required to consider the case of the petitioner who had acquired eligibility after passing TET and he cannot be ousted from the zone of consideration on the ground that he has become now over age.

Learned counsel appearing on behalf of the State on the other hand submits that the stand of the State is very specific that the age relaxation is only relatable to the candidates for whom passing of training examination is a condition precedent since in the subject of music dance and Lalit Kala there is no such requirements and therefore, the parameters which is applicable for appointment of trained teachers will not apply to the petitioner and as such no age relaxation is admissible to such teachers. Basically there is no requirement of passing training examination for appointment of music teachers but fact remains that music teachers are also required to pass TET examination for appointment on the post of teachers.

Since large number of vacancies were advertised for the first time in 2015 and prior to that advertisement there was no



opportunity to this petitioner to participate in the selection process and as such as a matter of one time indulgence in his case should be considered by the respondents after granting age relaxation.

Considering the rival submissions of the parties and also noticing the fact that for the first time TET examination was held in the year 2011 and after holding TET examination in which the petitioner has appeared and qualified, at least one opportunity should be extended to the petitioner and other music teachers or similarly circumstanced so that he may participate in the selection process for appointment of the music teachers.

Considering the extreme hardship in the present case, the court disposes of the writ petition with direction to the respondent authorities to consider the case of the petitioner for age relaxation as one time measures so that the petitioner may participate in the selection process for appointment of music teacher.

In view of the above, the court may deem fit and proper to declare that the order contained in Annexure-9 is required to be interfered with, accordingly the writ petition is allowed. Annexure-9 dated 7.10.2016 so far as the guidelines in granting age relaxation, is hereby quashed. The respondents are directed



to reconsider the case of the petitioner and all similarly circumstanced for age relaxation as one time measure so that he may participate in the selection process otherwise his right to participate in the selection process guaranteed under Article 16 renders nugatory by non-consideration of his case.

In n view of the peculiar facts and circumstances of the case, the respondent no.2 is directed to take a decision afresh considering the extreme hardship of the petitioner and similarly circumstanced other teachers to allow him to participate in the selection process on account of fact that for the first time TET examination was held in 2011 and vacancies were made available for consideration in 2015.

Such exercise must be completed by the respondents within a maximum period of sixty days 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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