

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4617 of 2018

Rangeela Kumari @ Rangila Devi W/o Rama Nand Dev resident of Village - Chichari Bujurg, P.O. & P.S. - Raj Nagar, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director (Primary Education), Department of Human Resources Development, Government of Bihar, Patna.
2. The District Magistrate, Madhubani, Collectariat Office, At + P.O. - Madhubani, District - Madhubani.
3. The District Superintendent of Education-Cum-District Program Co-ordinator, Sarva Shiksha Abhiyan, Madhubani, At + P.O. - Madhubani, District - Madhubani.
4. The Block Development Officer, Raj Nagar, At + P.O. - Raj Nagar, District - Madhubani.
5. The Mukhiya, Gram Panchayat Raj, Chichari Kanungo, Block - Raj Nagar, P.O. & P.S. - Raj Nagar, District - Madhubani.
6. The Panchayat Secretary, Gram Panchayat Raj Chichari Kanungo, Block - Raj Nagar, P.O. & P.S. - Raj Nagar, District - Madhubani.
7. The State Appellate Authority, through its Chairperson, Education Department, Bihar, 5 C.D., Niyojan Bhawan, Bailey Road, Patna - 800001.
8. Raju Kumar Jha S/o Sri Durganand Jha resident of Village - Chichari Bujurg, P.S. - Raj Nagar, District - Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rabindra Nath Kanth, Advocate
For the State	:	Mr.Kameshwar Kumar -Gp17
		Mr.Amit Bhushan, AC to GP 17
For BEPC	:	Mr. Girijesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 21-12-2018

Heard learned Counsel for the petitioner, learned Counsel for the State as also the learned Counsel for the respondent Bihar Education Project.

2. The writ petition has been filed for quashing the order dated 17.10.2017 passed by the Chairperson, State Appellate



Authority, Patna in Appeal No. 367 of 2017 rejecting the petitioner's application.

3. The petitioner had approached the Appellate Authority in respect of her claim that her disengagement/removal on the ground of not having acquired Intermediate qualification within 33 months from 16.3.2005 in view of Government Resolution No. 2517 dated 4.7.2008 is not in accordance with law.

4. Counsel for the petitioner has submitted that the resolution dated 4.7.2008, which has formed the basis of her disengagement, has been interpreted by this Court in the case of Indu Devi vs. The State of Bihar & ors in the proceeding arising out of CWJC No. 3700 of 2009, which is reported in 2010(2) PLJR 241. Relying upon paras 7 and 8 of the said judgment, petitioner's Counsel submits that the said Resolution in so far as it made the requirement of acquiring Intermediate qualification within 33 months from the date of appointment, was held to be bad as this Court had held that such executive order could not have been made retrospective. Referring to the case of Indu Devi (supra), it is submitted that in that case also though the petitioner had acquired qualification seven months later to the date on which she completed 33 months from the date of her initial appointment, however, this Court found her termination/removal/dis-



engagement to be bad in law on account of Resolution dated 4.7.2008 having retrospective operation. The petitioner, therefore, claims that her appointment as Panchayat Shiksha Mitra could not have been interfered with on the basis of Government Resolution dated 4.7.2008. The petitioner had acquired Intermediate qualification on 20.6.2009, which was within a period of 33 months from the date of Resolution dated 4.7.2008 and, as such, the petitioner was duly qualified for continuing as Panchayat Shiksha Mitra.

5. Counsel for the State draws attention of the Court towards a Full Bench judgment of this Court in the case of Kalpana Rani vs. The State of Bihar & ors. reported in 2014(2) PLJR 665. Referring to the said judgment, it is submitted by State Counsel that effect of pronouncement of the Full Bench is that after July 2006 when the Bihar Panchayat Elementary Teachers (Employment and Service Condition) Rules 2006 came into effect, the cadre of Panchayat Shiksha Mitra stood abolished. The specific mandate of the Full Bench was that after 21.6.2002 when the post of Panchayat Shiksha Mitra has been abolished, no direction could have been issued by the State Appellate Authority for appointment of the petitioner on the post of Panchayat Shiksha Mitra.



6. The submission of the Counsel for the respondent on the strength of the Full Bench judgment in the case of Kalpana Rani is correct. In view of the decision of the Full Bench and in view of the fact that the post of Panchayat Shiksha Mitra has been abolished as long back as in the year 2006 itself, today no direction can be issued in respect of the petitioner’s claim to continue or to be appointed or reinstated as Panchayat Shiksha Mitra.

7. The writ petition is, therefore, devoid of merit and the same is dismissed.

SNkumar/-

(Madhuresh Prasad, J.)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.12.2018
Transmission Date	N/A

