

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10243 of 2016

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Nikhath Parween, Daughter of Md. Ghayasuddin, Resident of Village-
Fauladpur, P.S.- Shakurabad, District- Jehanabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Human Resources Development Department, Bihar, Patna.
2. The Director Primary Education Government of Bihar, Patna.
3. The District Magistrate Cum Chairman District- Mobilization Committee (Literate India) Jehanabad.
4. The District Education Officer Cum Vice Chairman (Literate India) District Mobilization Committee, Jehanabad.
5. The Chief Programme Coordinator, Literate India Cum Secretary District Mobilization Committee, Jehanabad.
6. The Principal Urdu Primary School Fauladpur, Ratni Faridpur, Jehanabad.
7. Noor Rat Jehan, Wife of Md. Raza, Resident of Village- Fauladpur, P.S.- Shakumabad, District- Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Sinha
For the Respondent/s : Mr. Anjani Kumar- Aag6

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 20-11-2018

The present writ petition has been filed for directing the respondent authorities to appoint the petitioner on the post of Talmi Markaj Education Volunteer in Urdu Primary School, Fauladpur, District-Jehanabad.

2. The brief facts of the case according to the petitioner is that the petitioner had applied for selection on the post of Talmi Markaj Education (Volunteer) in Urdu Primary School, Fauladpur and had submitted application along with certificates of her educational qualification. It is further the case of the



petitioner that on account of adopting wrong procedure, the Selection Committee prepared a wrong seniority list on the basis of average marks according to which the petitioner was placed at serial no. 3, however, the Respondent No. 7 was placed at serial no. 1 though Respondent No. 7 is less educated than the petitioner herein. It is the further contention of the petitioner that the petitioner is a graduate, hence, her educational qualification, being more than the Respondent No. 7, deserves to be given weightage and accordingly, the petitioner was required to be appointed instead of the Respondent No. 7.

3. Per contra, the learned counsel for the Respondents has submitted, while referring to the counter affidavit filed on behalf of the respondent Nos. 4 and 5, that 17 candidates had applied for the aforesaid post and a merit list was prepared on the basis of average marks obtained by the candidates in their matriculation and intermediate examinations and on the basis of average marks obtained by the candidates, it was found that the Respondent No. 7, being at serial no. 1, was the successful candidate, hence, she has been appointed. It is submitted that the petitioner was at serial No. 3 of the merit list, hence, she could not be selected. The learned counsel for the Respondents has further referred to Annexure-A to the counter affidavit, which is



the letter dated 23.12.2013 issued by the Director, Mass Education cum Joint Secretary, Bihar, Patna, Education Department wherein it has been stated that the eligibility for elementary teachers is the eligibility for education volunteer. The learned counsel for the respondents has further submitted that the merit list has been prepared as per the guidelines mentioned in the Bihar Elementary Teachers (Appointment and Service Conditions) Rules, 2012 wherein the average marks obtained in the matriculation and intermediate examinations are to be considered and accordingly, the merit list is to be prepared after giving points according to the scheme mentioned in the said Bihar Elementary Teachers (Appointment and Service Conditions) Rules, 2012. Lastly, it has been submitted that according to the aforesaid rules and instructions, the merit list has been prepared and the petitioner had stood at the third position whereas the Respondent No. 7 was at number one position.

4. I have gone through the materials on record as well as have considered the arguments advanced by the learned counsel for the parties and I find that the Rules, 2012 only requires consideration of marks of matriculation and intermediate examination and drawing of a merit list, but it nowhere prescribes any weightage to be given for possessing graduate level educational



qualification, hence, no defect can be found with the merit list prepared by the Respondents, which in fact has also not been challenged by the petitioner herein either by filing a rejoinder affidavit to the counter affidavit filed by the Respondents or by an amendment petition, hence, no interference is warranted in the present case, especially, in view of the fact that the petitioner has stood at the third position in the merit list whereas the Respondent No. 7 has found place at number one position in the merit list which has already been held to be validly prepared according to the rules.

5. For the reasons mentioned hereinabove as also considering the facts and circumstances of the present case, there is no merit in the present writ petition, hence, the same is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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