

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8953 of 2011

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Kanti Kumari, W/O Shri Brijendra Yadav, R/O Village Ladhpur, P.O.-Gurukul
Mehiya, P.S.-Garkha, Distt.-Saran Petitioner

Versus

1. The State of Bihar through Director, Panchayati Raj, Bihar, Patna
 2. The Principal Secretary, Bihar Panchayati Raj, Patna
 3. The District Magistrate, Chapra
 4. The Block Development Officer, Garkha Sadar, Chapra,
 5. The District Panchayati Raj Officer, Saran
 6. The Sarpanch, Village Katcheri Mahmada, Distt. Saran
 7. Sri Binod Kumar Rai, S/O Shri Banwari Rai, R/O Village Ladhpur, P.S.-Garkha,
Distt.-Saran Respondents
- =====

Appearance:

For the Petitioner/s : Mr. Sumit Kr. Jha and
Mr. Suraj Samdarshi, Advocate.
For the Respondents-State: Mr. B.N. Singh, AC to GA 10.
For the Respondent no. 7: Mr. Gyan Prakash, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 26-02-2018

Heard learned counsel for the petitioner as well as learned
counsel representing the respondent no. 7 and learned counsel
representing the State.

2. The petitioner in the present case is aggrieved by the
communication as contained in letter dated 20.03.2011 (Annexure-6
to the Writ Application) by which she has been informed that by
virtue of the order passed by the Hon'ble High Court in CWJC No.
18123/2009 her appointment on the post of Gram Kutchery Sachiv
has been canceled and Sri Binod Kumar Yadav, who had been earlier
appointed, has been reinstated. Sri Binod Kumar Yadav is respondent
no. 7 in the present Writ Application.



3. Learned counsel for the petitioner submits that this petitioner having Madhyama certificate was eligible to be considered for appointment as Gram Kutchery Sachiv but her candidature was wrongly ignored and the respondent no. 7 was appointed because he was having a Matriculation certificate. Learned counsel submits that the rule relating to appointment of Gram Kutchery Sachiv even though earlier did not contain the eligibility clause comprising of Madhyama as a recognized certificate for purpose of appointment as Gram Kutchery Sachiv but, later on, the rule was amended and, in terms of the amended rule, those who were having Madhyama certificate were treated as equivalent to the Matriculates. Contention of the petitioner is that even though the amendment in Rule 5 of the Rules inserting the words “or equivalent” after Matriculation was notified on 05.01.2009 but the said amendment will have a retrospective effect from 31.01.2008.

4. On the other hand, learned counsel representing the respondent no. 7 submits that the selection process for appointment on the post of Gram Kutchery Sachiv was initiated sometimes in the year 2007 itself when admittedly Rule 5 did not contain the words “or equivalent”. Only those who were having Matriculation certificate were eligible to apply and this was evident even from the advertisement. Learned counsel further submits that the submission of



the learned counsel for the petitioner that the amendment to Rule 5 will have retrospective effect would not be a correct proposition inasmuch as once the selection process was initiated in terms of the then prevailing rule, the same cannot be affected by changing the rule of the game. Learned counsel further submits that, as a matter of fact, the petitioner was appointed on 28.01.2008.

5. Learned counsel for the State is present but no counter affidavit has been filed on behalf of the State.

6. Having heard learned counsel for the parties, this Court is of the considered opinion that the Writ Application is devoid of merits and is liable to be dismissed for a simple reason that on the date of advertisement the petitioner was not having Matriculation certificate which was the requisite qualification as per the rule then prevailing and, as such, the subsequent amendment to that rule in the year 2009 will not confer any right upon the petitioner to claim her appointment under the advertisement and the selection process which had been initiated in the year 2007.

7. The Writ Application has no merit. It is accordingly dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.02.2018
Transmission Date	N/A

