

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19990 of 2014

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Kumari Jaishree, D/O late Mahesh Kumar Singh, resident of Village-Jhaua Bahiyar,
Post-Jhaua Bahiyar, P.S.- Bariyarpur, District-Munger.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Munger.
5. The District Programme Officer (Establishment), Munger.
6. The Block Education Officer, Bariyarpur, Munger.
7. The Mukhiya, Gram Panchayat Raj Jhaua Bahiyar, Bariyarpur Block, Munger.
8. The Panchayat Secretary, Gram Panchayat Raj Jhaua Bahiyar, Bariyarpur Block, Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Advocate
Mr. Rohan Verma, Advocate

For the Respondent/s : Mr. S. Kumar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 01-10-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner is aggrieved by the order of the District
Teachers Employment Appellate Authority dated 27.12.2012 passed
in Appeal No. 97 of 2011.

3. The appeal of the petitioner was dismissed by the
Appellate Authority vide order as contained in Annexure-5. From
Annexure-5, it appears that petitioner has applied for the post
earmarked for Extremely Backward Class (Female). After the



selection process concluded and the petitioner was selected for the post, a decision was taken to convert the post earmarked for Extremely Backward Class (Female) as reserved for carry forward SC category and no appointment was made on the post which was earmarked for Extremely Backward Class (Female). The Appellate Authority while deciding the appeal has taken into consideration that in Jhaui Bahiyar Panchayat three posts were earmarked, one for un-reserved (female), one for backward class (male) and one for extremely backward class (female). He noted that at roster point 539 one post for Extremely Backward Class (Female) was earmarked but in remark column, it appears that it was backlog of SC category against roster point no. 702. Against three posts, one appointment was made which was earmarked for un-reserved category (female) and one appointment was made earmarked for backward class category but the post of Extremely Backward Class (Female) was kept vacant.

4. Noticing the explanation of the District Programme Officer (Establishment) dated 13.10.2012, the claim of the petitioner was rejected holding that the post of Extremely Backward Class (Female) is not vacant and as such there was no infirmity in the decision in appointing the petition.

5. Mr. Prashant Sinha, learned counsel appearing on



behalf of the petitioner with reference to Section 4 (5) of the Bihar Reservation of Vacancy in Posts and Services (for Schedule Castes, Schedule Tribes and Other Backward Classes) Ordinance, 1991 submits that the vacancies earmarked for Extremely Backward Class (Female) category can not be kept for the backlog of SC category. Mr. Prashant Sinha submits that the respondents have undertaken Selection process for one post for Extremely Backward Class (Female) and petitioner was considered and selected for the Extremely Backward Class (Female) category. Denial of appointment on the plea that post is available for SC category backlog is most illegal and arbitrary.

6. Considering the totality of the facts situation and the advertisement for the purpose of making appointment of Extremely Backward Class (Female), the action of the respondent denying appointment of the petitioner and keeping the post which was advertised for Extremely Backward Class (Female) as backlog for the SC Category is not justified. The Court is of the view that the action of the respondent and the order of the District Teachers Employment Appellate Authority as contained in Annexure-5 cannot sustain. It is, accordingly, quashed. The respondents are directed to consider the case of the petitioner for appointment in the Extremely Backward



Class (Female) category and take appropriate decision within a maximum period of four months from the date of receipt of this order.

7. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2018
Transmission Date	

