

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18522 of 2018

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Kumari Anita wife of Sri Manoj Diwakar, daughter of Sri Arjun Prasad Mehta, resident of Mohalla- Line Par, Mirzapur, Near Surya Mandir, P.S.- Nawada, District- Nawada at present residing at Village- Anaila, P.O.- Maharama, P.S. Roh, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Schedule Cast/ Schedule Tribe, Welfare Department, Government of Bihar, Patna.
3. The Director, Schedule Cast/ Schedule Tribe, Welfare Department, Government of Bihar, Patna.
4. The Bihar Staff Selection Commission, Veterinary College Campus, Patna- 800014 through its Chairman.
5. The Secretary, the Bihar Staff Selection Commission, Veterinary College Campus, Patna- 800014

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Mr. Umesh Kumar Verma Mr. Ahshansh Ankit
For the State	:	Mr. Sunil Kumar Mandal -Sc3 Ms. Neelam Kumari, AC to SC 3
For SSC	:	Mr. Satyam Shivam Sundaram, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 29-11-2018

Heard learned Counsel for the parties.

2. The writ petition has been filed seeking a direction upon the Bihar Staff Selection Commission to recommend the petitioner for appointment under Ambedkar Residential High School pursuant to the selection process undertaken for appointment of Primary Teachers (Intermediate Trained). The petitioner claims to be a female candidate of backward class category.



3. It is submitted on behalf of the petitioners that having participated in the selection process, she has not been recommended for appointment in spite of the fact that she has a valid degree of D.Ed. Special Education (Visual Impairment) Examination.

4. Counsel for the petitioner has relied upon Annexures 5 and 6 of the writ petition to contend that the petitioner was qualified for the appointment in question.

5. Annexure 5 is notification dated 23.8.2010 specifying the minimum qualification laid down by the National Council for Teachers Education (NCTE) for a person to be eligible for appointment as a teacher in Class I to VIII. The same has been issued in furtherance of the objectives contained in the Right of Children to Free and Compulsory Education Act 2009 (hereinafter referred to as RTE Act, 2009). Referring to the minimum qualification prescribed in the said notification the petitioner has submitted that having completed two years Diploma in Education (Special Education) the petitioner was eligible for being recommended and appointed.

6. Annexure 6 is the Memorandum of Understanding between the NCTE and the Rehabilitation Council of India (RCI). It merely contemplates constitution of National



Consultative Committee to evolve and review norms and standards for offering special education teacher preparation programmes with disability specific specialization and other related matters to teachers' service conditions. The same has also been issued in furtherance of the provisions of the RTE Act 2009.

7. Harmonious construction of the said two documents shows that the NCTE along with RCI has taken steps to ensure that syllabi and training is standardised for special teachers/educators to provide qualified teachers to teach children with special needs arising out of disabilities. Admittedly the petitioner has acquired a certificate for D.Ed, Special Education (Visually Impaired). The said qualification, therefore, at best makes her qualified with teaching method for visually impaired children which is not required for the advertised post.

8. The advertisement in question, wherein she has participated for selection, is for selection and appointment of teachers in the Ambedkar Schools, wherein education is not being imparted to special needs children. The requisite qualification is different, under the advertisement in response to which petitioner has applied. The same does not require



teachers having D.Ed. (Special Education). The qualification required as per the advertisement is two years Diploma in Teachers Training from NCTE approved institution, which the petitioner admittedly does not have. The qualification possessed by the petitioner is D.Ed. Special Education (Visually Impairment). No post has been advertised requiring such qualification as the schools in question are not imparting education to special need or visually impaired children.

8. The petitioner, therefore, has no valid claim to the selection in question. The writ petition is devoid of merit and is accordingly dismissed.

(Madhuresh Prasad, J.)

SNkumar/-

AFR/NAFR	NAFR
CAV DATE	27.11.2018
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