

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2049 of 2016

In

Civil Writ Jurisdiction Case No.9564 of 2013

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Bhawesh Nath Jha S/o Shri Rama Nath Jha R/o Village- Paghari, P.S.- Biraul,
District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Member District Teacher Employment Appellate Authority,
Balbhadrapur, Laheriasari, Darbhanga.
3. The Block Development Officer, Biraul, Darbhanga.
4. The Block Education Extension Officer, Biraul.
5. Panchayat Niyojan Ekai (Panchayat Employment Unit), Grampanchayat-
Sonpur Paghari.
6. Mukhiya, Grampanchayat- Sonpur Paghari, Block- Biraul, District-
Darbhanga.
7. Panchayat Sachiv, Panchayat- Sonpur Paghari, Block- Biraul District-
Darbhanga.
8. Ram Nath Jha S/o Late Aklu Jha R/o Village- Paghari, P.S.- Biraul, District-
Darbhanga. Ex Mukhiya, Gram Panchayat- Sonpur Paghari, Block- Biraul,
District- Darbhanga.
9. Ranjit Kumar Jha S/o Badr Nath Jha R/o Village- Biraul, P.S.- Biraul,
District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr Kamal Nayan Chaubey, Sr. Advocate Mr. Sameer Ranjan, Advocate
For the State	:	Mr. AC to AAG 15
For Respondent No.9	:	Mr Rajni Kant Jha, Advocate
For Intervenor Respondents :		Mr Md. Jubair Ansari Mr Mrityunjay Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 26-03-2018

Heard learned senior counsel for the appellant, counsel for
the private respondent and counsel for the State.



2. Since the writ application of private respondent no.9 was allowed and appointment of the present appellant, who was respondent no.8, on the post of a Panchayat Teacher was set aside, the present intra- court appeal has been preferred by the appellant.

3. Writ application was filed for quashing the order dated 02.02.2012 passed by the District Teachers Employment Appellate Authority, Laheriasarai in Appeal No.130 of 2011 since the appeal was dismissed by the Tribunal refusing to interfere with the employment of the present appellant on the post of a Panchayat Teacher. On the basis of an advertisement issued by the Gram Panchayat Sonpur Paghari, Biraul Block in the district of Darbhanga applications were filed by the present appellant as well as the private respondent no.9, who was the writ petitioner. Exercise was done. Even though the private respondent no.9 was shown at the top of the merit position and the present appellant at the second position, the private respondent was not appointed on the post of Panchayat Teacher on the ground that he was holder of a vocational degree.

4. So far as the validity of vocational degree is concerned, it is settled position so far, on the basis of a learned Single Judge's decision, affirmed by a Division Bench, that even a vocational degree has to be treated equivalent to intermediate degree and,



therefore, there is no bar coming in the way of consideration for appointment on the post of a Panchayat Teacher. Another aspect, which is of significance, is that the appellant happened to be the son of the Mukhiya, who was the Chairman of the Selection Board and that seems to be the primary reason for the private respondent – cum- writ petitioner to have been ousted from the zone of consideration on the spacious ground that he was holder of a vocational degree. A via media, therefore, had been worked out to accommodate the present appellant on the post of a Panchayat Teacher by the Mukhiya of the village, who happened to be his own father.

5. The learned Single Judge has taken note of all these facts and came to a considered opinion that since son of the Mukhiya was one of the applicants, he should have recused himself from the selection process and the circumstances under which the appellant came to be appointed surely suffer from the principle of bias and that is yet another ground why the order of the Tribunal suffered from illegality and required to be interfered with.

6. In totality, therefore, the learned Single Judge rightly came to a conclusion that the participation of the father of the appellant and the selection of the appellant even though he had lesser percentage of marks than the private respondent required to be



interfered with. The impugned order of the Tribunal dated 02.02.2012 was set aside and the appointment of the appellant was also interfered with. A direction was given on the Gram Panchayat to hold counselling of the private respondent after due verification of his degree.

7. The submission of the learned senior counsel for the appellant that since the vocational degree is not a valid degree is misplaced. So long as the judgment and order of the learned Single Judge or the Division Bench is not set aside, which had granted recognition even to vocational degree at par with an intermediate degree, such submission cannot be entertained. There seems to be some error in extending the logic of equivalence by not properly reading the notification issued by the Intermediate Council of giving recognition to a vocational degree at par with an intermediate degree. The object of giving equivalence was to give recognition to the vocational degree with the object of giving weightage to that degree so that in case of public employment even persons, who have acquired certain skill of vocational kind, could seek public employment in the said skill, Be that as it may, we sitting in the Division Bench are not willing to annul the Division Bench decision, which had upheld the Single Judge's



order, extending recognition to a vocational degree at par with an intermediate degree.

8. The order of the learned Single Judge for the reasons as above is not required to be interfered with. The appeal, therefore, fails and is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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