

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10730 of 2009

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Anupasri Kumari, wife of Sri Sanjay Kumar Paras Nath Bhardwaj, resident of village and post office Garh Sisai, Police Station Vidyapati Nagar, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar, through its Secretary, Welfare Department, Government of Bihar, Patna High Court
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The District Magistrate, Samastipur
4. The Sub-Divisional Officer, Dalsinghsarai, District-Samastipur.
5. The Block Development Officer, Vidyapati Nagar, District-Samastipur
6. The Block Education Extension Officer, Vidyapati Nagar, District-Samastipur
7. The Gram Panchayat Secretary, the Gram Panchayat Raj, Garh Sisai, Block Vidyapati Nagar, District-Samastipur
8. The Mukhiya, Gram Panchayat Raj, Garh Sisai, Block Vidyapati Nagar, District-Samastipur.
9. Durga Devi, wife of Sri Anjani Kumar Jha, resident of village and post office Garh Sisai, Police Station -Vidyapati Nagar, District-Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. L.K.Yadav
For the Respondent/s : Mr. Sanjay Pandey (Gp21)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 17-07-2018

Heard learned counsel for the petitioner and the counsel appearing on behalf of the State as well as counsel for the private respondent.

2.The only issue relevant for deciding the present writ application is whether Durga Devi, respondent no.9 was under disqualification on the date of consideration for appointment of Shiksha Mitra. Admittedly, on the date of consideration for appointment of Shiksha Mitra, the respondent



no.9 was a Ward Member and was a party to the selection of Shiksha Mitra.

3. In view of the aforesaid, the respondent no.9 was under disqualification and the case of respondent no.9 could not have been considered for appointment as Shiksha Mitra. Although, she has tendered his resignation on the date of consideration for appointment of Shiksha Mitra.

4. The law is well settled that a person who was member of selection committee is under disqualification and in view of the above, the selection process is vitiated with selection of respondent no.9.

5. In this regard, reference may be made to the judgment of Apex Court in the case of **A. K. Kariapak reported in AIR 1970 SC 151** where this aspect of the matter was considered by the Apex Court and held out that the selection stands vitiated on account of personal bias as applicant though not participated in the selection process was member of the selection committee in relation to the appointment on the post since respondent no.9 herself was an applicant and as such the appointment of respondent no.9 is vitiated.

6. In view of the aforesaid, the writ petition is



allowed. The order of selection of respondent no.9 is declared to be illegal. Consequently, the decision of the District Magistrate dated 11.06.2009 upholding the selection of respondent no.9 is unsustainable and accordingly quashed. The petitioner would be entitled to consequential relief.

7. The petitioner who has been absorbed as Panchayat Shikshak and is continuing and as such shall be allowed to continue as Panchayat Shikshak with all consequential benefits.

8. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	

