

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5970 of 2010

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1. Seema Kumari W/O Shri Shyam Mohan Upadhyaya R/O Vill & P.O.Tundwalia, Via-Naraipur, P.S.Semara, Block Bagaha-2, Distt-West Champaran.
 2. Savita Devi W/O Rajan Bhagat R/O Vill & P.O.Tundwalia, Via Naraipur, P.S.Semra, Block-Bagaha-2, Distt-West Champaran.
 3. Chanchal Devi W/O Fanindra Nath Verma R/O Vill & P.O.Tundwalia, Via Naraipur, P.S.Semra, Block-Bagaha-2, Distt-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Commissioner , Tirhut Division Distt-West Champaran(Bettiah)
3. District Magistrate Distt-West Champaran (bettiah)
4. Child Development Project Officer Bagaha, Distt-West Champaran
5. Block Development Officer(B.D.O.) Block-Bagaha-2, Distt-West Champaran
6. Block Education Extension Officer (B.E.E.O.) Block-Bagaha-2, Distt-West Champaran
7. Mukhiya Gram Panchayat Raj Yamunapur, Tundwalia, P.S.Semra, Distt-West Champaran
8. Panchayat Secretary Gram Panchayat Raj Yamunapur, Tundwalia, P.S.Semra, Distt-West Champaran
9. Alka Dwivedi W/O Satyendra Dwivedi R/O Vill +P.O.tundwalia, Via-Naraipur, P.S.Semara, Block-Bagaha-2, Distt-West Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vishwajeet Kumar Mishra, Adv.
For the Respondent/s	:	Mr. Jitendra Kumar, AC to AAG-14
		Mr. Rajendra Pd. Singh, Sr. Adv.
		Mr. Rajeev Kr. Singh, Adv.
		Mr. Nirala Kr. Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 11-04-2018

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

In this case, the petitioners are challenging the order
passed by the Commissioner, Tirhut Division, Mujaffarpur vide
order dated 19.1.2010 setting aside the order dated 17.1.2009



passed by the District Magistrate, West Champaran, Bettiah, whereby and whereunder, he has declared that the Vidya Binodini qualification is not a proper qualification for the purpose of appointment on Anganbari Sevika and, in pursuance thereof, the District Programme Officer, vide letter dated 19.1.2009, has communicated to the respondent no.9 Alka Dwivedi that her selection has been canceled which is the subject matter of consideration before this Court.

The matter relates to Anganwari Sevika for Center No. 63, Tundwalia under Gram Panchayat Raj yamunapur Tundwalia, West Champaran. The petitioners and Alka Dwivedi had filed application for appointment on the post of Anganwari Sevika, the minimum qualification was Matric or Intermediate. The applications of the petitioners were rejected on one ground or the other but, Alka Dwivedi was appointed on the basis of her qualification of Vidya Vinodini which is claimed to be equivalent to Matric qualification. Objection was raised before the District Magistrate, raising a grievance that Vidya Vinodini is not a recognized qualification for the appointment of Anganwari Sevika and any person, having qualification of Vidya Vinodini, cannot be said to be holding the requisite qualification. The District Magistrate has accepted the plea of the present petitioners and



declared the selection of Alka Dwivedi to be wrong and directed for cancellation of her selection. Accordingly, the District Programme Officer informed the respondent no.9 of cancellation of her appointment.

In the present case, the Divisional Commissioner, placing reliance on the notification no. 45/2003 and the order passed in C.W.J.C. No. 3266 of 1991 declared the appointment of Alka Dwivedi to be proper holding that Vidya Vinodini is the proper qualification which is equivalent to Matric and her appointment cannot be in any way declared to be bad in law.

Learned counsel for the petitioners has submitted that the qualification of Vidya Vinodini has never been accepted as a valid qualification for appointment of Anganwari Sevika or the appointment as a Panchayat Teacher. The letter dated 25.8.2008 itself made a declaration that the qualification of Vidya Vinodini cannot be said to be a valid qualification for the appointment as Panchayat Teacher or elementary teacher. This Court vide order dated 12.3.2018 passed in C.W.J.C. No. 9004 of 2010 (Rinku Kumari Vs. The State of Bihar & Ors.) has held that the Vidya Vinodini is not a proper educational qualification which cannot be said to be equivalent to Matric, be a basis for appointment of Panchayat Teacher or Anganwari Sevika.



Learned counsel for the petitioners has submitted that in course of time, the petitioners have acquired the qualification of Intermediate and submitted that whatever be the weakness was in the qualification of the petitioners is no longer in existence for debarring the petitioners for being appointed as Anganwari Sevika but, the question in the present case which has been raised by the petitioners the qualification which she was holding on the date of publication of the notification for appointment as Anganwari Sevika. Even if she has acquired the requisite qualification after the due date, that will not validate the invalidated selection of the respondent no.9.

Learned counsel for the petitioner has submitted that certain application has not been taken into consideration as because the father-in-law was in extra departmental postal employees. As per 3(Anga), the relative of Intra Departmental Postal Employees have been excluded and, as such, their ward cannot be taken into consideration for appointment, does not exclude ward of a person who was holding the post of Extra Departmental Postal employees.

In the considered opinion of this Court, the submission of the learned counsel for the petitioners is correct. If on the date of publication of the notification for appointment, if the person



does not have a requisite qualification, subsequent acquisition of qualification, will not make the appointment to be valid but, it has to be seen on the date the notification was published was holding the proper qualification. This Court is of the view that the order passed by the Divisional Commissioner is completely wrong, is based on wrong premise, at the same is based on misconception of the law in the matter which he has placed reliance as the qualification of Vidya Vinodini was never recognized for the apportionment on the post of Anganwari Sevika or Panchayat Teacher.

In that view of the matter, the order passed by the Divisional Commissioner is set aside and this Court directs the District Programme Officer to give direction to the Mukhia of the Gram Panchayat to conduct a fresh counseling limited to the candidates from amongst the candidates who applied for the post of Anganwari Sevika will be considered for appointment.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.04.2018
Transmission Date	NA

