

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15421 of 2012

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CHANDRAWATI KUMARI W/O RAM PRASAD KARMKAR RESIDENT
OF VILLAGE- SADIPURBUTHA, P.O. SADIPUR, P.S. BAISI, DISTRICT-
PURNEA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE DIRECTOR, HUMAN
RESOURCE DEVELOPMENT, GOVT. OF BIHAR, PATNA
2. THE DIRECTOR, SECONDARY EDUCATION, BIHAR, PATNA
3. THE DEPUTY DIRECTOR, SECONDARY EDUCATION, PATNA
4. THE DISTRICT MAGISTRATE, PURNEA
5. THE DISTRICT EDUCATION OFFICER, PURNEA
6. THE PRINCIPAL PROJECT KANYA UCHHA VUDYALAYA

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha
For the Respondent/s : Mr. Rajendra Kr. Jha

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 10-10-2018 Heard learned counsel for the petitioner and counsel
appearing on behalf of the State.

Claim of the petitioner was rejected on the ground of
underage. The issue of underage was considered by the Apex
Court in Civil Appeal No. 182 of 1994 (Arsing out of SLP
(Civil) No. 641 of 1993 and the Apex Court has held out that the
service rendered prior to attaining the age of 18 years has to be
ignored and thereafter the case of the petitioner should be
considered for absorption.

Considering the aforesaid the writ petition disposed of
with direction to the respondents to examine the case of the



petitioner for absorption and if it is found that on the date of takeover of the school, the petitioner was holding the requisite qualification and was 18 years of old, his case should be considered for absorption in accordance with principle laid down by the Apex Court as well as full Bench of this Court reported in 2000 (3) PLJR, 287 and also decision in the case of Md. Afaque Alam in CWJC No. 5490 of 2011 whose claim was allowed by this Court vide order dated 30.3.2012.

Considering the aforesaid the writ petition is allowed. The order contained in Annexures 3 and 5 are hereby quashed. Respondents are directed to take fresh decision on the claim of the petitioner with all consequential benefits within a maximum period of four months from the date of receipt / production of a copy this order.

With the aforesaid the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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