

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10990 of 2013

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Smt. Sangam Srivastava, Wife Of Sri Govind Sharann Sinha Resident Of
Housing Colony Chandwa, P.S. Navada Ara, District - Bhojpur

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Human Resources Development
Department, Government Of Bihar, Patna
2. Director (Primary Education), Human Resources Development Department,
Government Of Bihar, Patna
3. District Education Officer, Bhojpur District, Ara
4. National Council for Teacher Education through Regional Director, N.R.C.
N.C.T.E. IVth Floor LIC Building Bhawani Singh Marg Jaipur Rajasthan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. K.M.Joseph, Advocate
For the State	:	Mr. S.Raza Ahmad, AAG 5
		Mr. Vishwambhar Prasad, AC to AAG 5
For N C T E	:	Mr. Sunil Kumar Singh, Advocate
		Mr. Ranvijay Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 20-11-2018

The petitioner is aggrieved by indecisiveness on the
part of the respondent authorities in granting approval to her
service as Assistant Teacher against existing vacancy in Catholic
Middle School, Ara.

Learned counsel for the petitioner submits that the
petitioner was appointed after following the prescribed procedure



on the vacancy available in Catholic Middle School, Ara. Referring to the supplementary affidavit he submits that 7 posts of Assistant Teacher and 1 post of Headmaster have been sanctioned for the school and at the time of appointment of the petitioner there were 5 vacancies and the petitioner was appointed after advertisement and following selection process against the sanctioned post. He submits that right of the minorities to establish and administer educational institution have been recognized as Fundamental Right. Once the petitioner was appointed by the minority institution after following the selection process and the post was sanctioned and vacant one it was the obligation of the State to grant approval to the service of the petitioner.

On behalf of the respondents, stand has been taken that at the relevant time the respondents put a ban on the appointment in view of the fact that the State Govt. had taken a policy decision not to make any appointment on the post of Assistant Teacher in aided elementary school managed by the Managing Committee and as such the respondents have not granted approval to the service of the petitioner although was appointed against the sanctioned vacant post after following the due process of selection.

It is now well settled that right to establish and administer educational institutions is valuable fundamental right of



the minority and that cannot be made nugatory by any State action. Since the State has sanctioned 1 post of Headmaster and 7 posts of Assistant Teacher, the school was free to make appointment after following the selection process. The issue of ban on appointment of Assistant Teacher within the sanctioned strength in minority institution does not merit any consideration for the simple reason that once the State Government has approved the post it was the right and privilege of the Managing Committee of the educational institution to appoint on the post of Assistant Teacher.

In view of the above, the Court does not find any substance in the objection raised by the State in the matter of refusing grant of approval and not approving the service of the petitioner. Respondents cannot on the pretext that there was a ban on appointment at the relevant time sit tight over the matter and deny approval.

Accordingly, this writ application is allowed. Respondents are hereby directed to take an appropriate decision with regard to the approval of the service of the petitioner who was appointed against sanctioned vacant post after following the prescribed procedure. Necessary decision as to approval along with all consequential benefits may be taken by the respondents at



the earliest, preferably within a period of four months from the date of receipt/production of a copy of this order.

The writ petition stands allowed.

mrl./-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.11.2018
Transmission Date	N.A.

