

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18043 of 2014

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Shazia Tarannum, W/O Rashid Eqbal, R/O Mohalla- Kaghzi, P.S.- Bihar Sharif,
District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Bihar, Patna
3. The Director, Secondary Education, Bihar, Patna
4. The Deputy Director, Secondary Education, Bihar, Patna
5. The District Education Officer, Nalanda
6. The Secretary, Bihar Staff Selection Commission, Bihar, Patna
7. The Secretary, Managing Committee, Soghra High School/Inter College Bihar Sharif, Nalanda
8. The Principal, Soghra High School/Inter College Bihar Sharif, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam, Advocate
Mr. Rakesh Kumar, Advocate
For the Respondent/s : Mr. Binita Singh, SC-28
Mr. Apurv Harsh, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date: 25-09-2018

Heard learned counsel for the petitioner and respondents.

2. The petitioner initially approached this Court for a direction to the respondents to approve her services as Assistant Teacher (Urdu) in Sogara High School, Bihar Sharif, Nalanda.

3. During the pendency of the writ application, the Director, Secondary Education, passed order rejecting the claim of the petitioner for approval of service on 19.05.2017 (Annexure-A to the counter filed on behalf of respondent no.3). Thereafter the petitioner



filed I.A. No. 1581 of 2018 for amendment in the prayer portion of the writ application i.e. for quashing the decision dated 19.05.2017 (Annexure-A to the counter filed on behalf of respondent no.3).

4. From perusal of Annexure-A to the counter filed on behalf of respondent no.3, it appears that the claim of the petitioner was rejected on the ground that in non-government Secondary School one post of Oriental Education is sanctioned under the “Manak Mandal”. The Board has granted approval to the appointment of one Shahnawaz Shamim, who was appointed by the Managing Committee in 2009 against the sanctioned post and on that basis the claim of the petitioner was rejected saying that when he was appointed in 2008, the post was not available.

5. From perusal of Annexure-A, it is evidently clear that the Director, Secondary Education has passed the order without application of mind. The Court fails to understand when the selection process commenced in 2008 there was no post available how the post was available in 2009 for appointment of Shahnawaz Shamim. The Court fails to appreciate the reason assigned by the Director, Secondary Education while rejecting the claim of the petitioner. Any prudent man reading the aforesaid reasoning can come to a conclusion that the reason for rejecting the claim of the petitioner is absurd. Subsequent reason, which was the basis of rejecting the claim of the



petitioner, is also thoroughly misconceived. The Director, Secondary Education proceeded on the basis of “Manak Mandal” to hold that there is one post of Oriental Teacher is available in a Non-government Secondary School. The Director has ignored the fact that the Government has sanctioned 18 posts for Sogara High School.

6. Considering the aforesaid, the Court is of the view that the order dated 19.05.2017 as contained in Annexure-A to the counter filed on behalf of respondent no.3 rejecting the claim of the petitioner cannot sustain. It is accordingly quashed. The matter is remitted back to the Director, Secondary Education to take fresh decision considering the sanctioned strength of the Sogara High School as 18 and not on the basis of “Manak Mandal”. The Director, Secondary Education is also required to consider that the appointment of the petitioner was pursuant to the selection process after advertisement in 2008 is anterior to the selection process undertaken in the matter of appointment of Shahnawaz Shamim in 2009 and as such the Director, Secondary Education has to see that the claim of the petitioner cannot be rejected on the ground that the post was not available for consideration of appointment of the petitioner in 2008.

7. Necessary decision in this regard after remand must be taken by the respondents within a period of four months from the date of receipt/production of a copy of this order.



8. The respondents are also required to consider for grant of all consequential benefits after fresh decision in accordance with law and the observations made in this writ application.

9. The writ application is allowed and disposed of to the extent mentioned above.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2018
Transmission Date	

