

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14475 of 2008

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Raunaq Jahan, Wife of Serazul Haque, resident of Ward No. 13, At + P.O. + P.S.-
Nasriganj, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Human Resources, Government of Bihar, Patna.
3. Bihar Education Project Council through its State Project Director, Beltron Bhawan, Shastri Nagar, Patna.
4. State Project Director, Bihar Education Project Council, Beltron Bhawan, Shastri Nagar, Patna.
5. District Superintendent of Education-cum-District Programme Coordinator, Bihar Education Project Council Rohtas, Sasaram.
6. District Magistrate, Rohtas, Sasaram.
7. DDC, Rohtas, Sasaram.
8. District Education Officer, Rohtas at Sasaram.
9. Kahkaha Anzoom, wife of Md. Saharwar Ansari, R/o Ward No. 1, At + P.O. + P.S. Nasriganj, District- Rohtas.
10. Union of India through Secretary, Human Resources Development Department, Shastri Bhawan, New Delhi-1.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.S. Tiwari, Advocate
For the State : Mr. Vijaya Laxmi Srivastava, AC to SC-23
For the Bihar Education Project : Mr. Girijish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 28-02-2018

Heard learned counsel for the petitioner; State and Bihar
Education Project Council.

2. The petitioner has moved the Court for the following



reliefs:

“I. That the respondents may be directed to make appointment to the petitioner on the post of part-time teacher and the private respondent Kahkaha Anzoom be removed from the post of part-time teacher.

II. That the respondents may be directed to cancel the appointment of teachers in Kasturba Gandhi Balika Vidyalaya, Nasriganj where all the appointments has been made from only one category belonging to most backward class.

III. That any other relief or reliefs may be allowed, which may be just proper and equitable in the opinion of this Hon'ble Court.”

3. The petitioner is aggrieved by her non selection for the post of temporary teacher pursuant to advertisement dated 14.02.2008. The said advertisement was being engaged for a period of one year. Appointments were made on 06.07.2008. The petitioner not being appointed has filed the writ petition raising a grievance that respondent no. 9, who had lesser marks was selected and appointed, which was illegal as both belonged to the minority community.

4. Learned counsel for the petitioner submitted that the fact that the petitioner had more marks than respondent no. 9 is not denied and she had the first right to be appointed and that not being done, the Court would interfere so that an illegality, which has been done should not be allowed to be perpetuated.

5. The stand taken by the Bihar Education Project



Council, it appears that the respondent no. 9, though being a minority was also having the advantage that she belonged to the MBC category which is the majority community/caste of the local area whereas, the petitioner did not belong to the majority community in the area. Learned counsel submitted that first and foremost, the writ petition itself is not maintainable as it relates to part time, temporary and contractual engagement under a scheme of *Sarva Shiksha Abhiyan* under the Centre known as *Kasturba Gandhi Balika Vidyalyaya* and the Courts have held that the same is not required to be gone into under the writ jurisdiction of the High Court under Article 226 of the Constitution of India. For such proposition, learned counsel has referred to various judgments of co-ordinate Benches including that of the Division Bench dated 06.08.2012 in **L.P.A. No. 677 of 2011** in the case of **Smt. Priyadarshika Vanita vs. The State of Bihar & Ors.** and also order dated 24.04.2014 passed in **L.P.A. No. 385 of 2012** in the case of **Director, Bihar Education Project Council vs. Prasant Kumar & Ors.** and its analogous cases.

6. Having considered the matter, the Court finds that no order is required to be passed on merits in the present writ petition, both for the reason that in such matters the appointment not being under the State, writ petition under Article 226 of the Constitution of



India is not competent, and further, that the nature of the job was contractual for one year, which ended in the year 2009 and after that it was open to the petitioner to apply pursuant to any separate advertisement subject to fulfilling the other eligibility criteria.

7. Accordingly, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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