

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13832 of 2016

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Ram Narayan Mandal, son of Jagdish Mandal, resident of village - Godam
Tola, Police Station- Ladania, District - Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Human Resources, Government of Bihar, New Secretariat, Patna.
2. The Collector, Madhubani.
3. The Block Development Officer, Ladania, Madhubani.
4. The Panchayat Secretary, Panchayat Lakshminia, District - Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Sri Ram Suresh Roy, Senior Advocate Sri Binod Kumar Singh, Advocate
For the Respondent/s	:	A.C. to S.C. 13 Ms. Usha Kumari Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
CAV ORDER

14 15-05-2019 The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution Of India, has prayed for quashing of an order dated: 22.07.2016 passed by Panchayat Secretary, Lakshminia Panchayat, Madhubani. By the said order the Panchayat Secretary /respondent no. 4 in terms of the judgment dated- 11.05.2016 passed in C.W.J.C. No. 16031 of 2011 has rejected the claim of the petitioner on the ground that there was no post reserved for physically handicapped, the petitioner was having lesser marks and also he did not participate in the counselling.

2. The petitioner has claimed that he had passed



Intermediate Examination in the year 2002 from Bihar Intermediate Council and through registered letter dated 10.11.2008 he applied for being appointed as Panchayat Teacher, Lakshaminia Panchayat. It was asserted that the petitioner was physically handicapped person and his disablement was to the extent of 50%. He claimed that he participated in the counselling and submitted all the papers, however he was not given employment and thereafter he had filed application before the Appellate Authority under Rule 18 of the Bihar Panchayat Elementary Teacher (Appointment and Service Conditions) Rules, 2006 which was disposed of on 25.03.2011 vide Annexure 4 to the writ petition. It was directed by the Appellate Authority that Panchayat Secretary of Lakshminia Panchayat under Prakhand- Ladania (i.e. employment unit) on the basis of petitioner's position in the merit list and counselling shall examine the claim of the petitioner within specified time.

3. It has been argued by Sri Ram Suresh Roy, learned senior counsel, assisted by Sri Binod Kumar Singh, learned counsel for the petitioner that since after order of the Appellate Authority no action was taken the petitioner was earlier constrained to approach this court by filing writ petition vide



C.W.J.C. No. 16031 of 2011 (Annexure- 9 to the writ petition) which stood disposed of on 11.05.2016 and direction was given to respondent no. 4/ Panchayat Secretary to take decision in compliance with the order of the Appellate Authority within specified time. In terms of the order of the writ court the petitioner filed representation and finally by the impugned order i.e. Annexure- 10 the claim of the petitioner has been rejected. It has been argued that Panchayat Secretary again reiterated its earlier order.

4. On the contrary, a counter affidavit opposing the writ petition has been filed on behalf of respondent 4 /Panchayat Secretary, Lakshminia Panchayat, District- Madhubani. In paragraph 7 of the counter affidavit a specific stand has been taken that the Employment Unit Committee in its proceeding dated – 29.12.2010 selected six persons and one from backlog vacancy. There were six vacancy in Lakshminia Gram Panchayat as: two (02) Unreserved, one (01) Unreserved (Female), one (01) B.C., one (01) E.B.C. and one (01) S.C. It has been clarified in the counter affidavit that there was no vacancy available for physically handicapped. The petitioner had applied as Extremely Backward Caste Category and he did not appear on 28.02.2009 at the time of counselling. Against the



vacancy earmarked for Extremely Backward Caste one Manoj Kumar Sahani, who had appeared in counselling and had obtained 55.42 % marks was appointed in the said category. In paragraph 8 of the counter affidavit it has been clarified that petitioner was having only 44% marks i.e. much lower marks than the candidate appointed against the Extremely Backward Caste Category. Learned counsel appearing on behalf of respondent no. 4 as well as learned A.C. to S.C. No. 13 have submitted that since no one having lesser marks than the petitioner has been appointed against the category against which petitioner had claimed appointment, the petitioner has got no case nor the petitioner had participated in the counselling on the fixed date.

5. Besides hearing, I have also examined the material available on record. In the impugned order it has been clarified that there was no vacancy earmarked for physically handicapped. On the basis of facts disclosed in the counter affidavit of respondent no. 4 it is also evident that against the category for which the petitioner had applied i.e. Extremely Backward Caste Category one candidate having much higher marks than the petitioner was appointed. Moreover, on oath it has been stated by the respondent that the petitioner had not



participated in the counselling. Moreover, since no one having lesser marks than the petitioner has been appointed in the category against which petitioner had claimed appointment, the petitioner has got no case and as such there is no reason to interfere with the impugned order.

6. The writ petition stands dismissed.

(Rakesh Kumar, J)

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