

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2333 of 2017

Arising out of

Civil Writ Jurisdiction Case No.4158 of 2016

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Pawan Kumar Sharma son of Late Ganga Ram Sharma, resident of Village
P.O. Chak Nathu, P.S. Sanhoula, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through Sri R. K. Mahajan, The Commissioner Cum Secretary, Education Department, Government of Bihar, Patna.
2. Mr. R.K. Mahajan, the Commissioner cum Secretary Education Department, Government of Bihar, Patna.
3. Mr. Binodanand Jha, the Director, Mass Education, Education Department, Government of Bihar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Kumar Jain, Advocate

For the Opposite Party/s : Mr. Priyadarshi Matri Sharan, AC to AAG 15

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 31-07-2019

Heard learned counsel for the petitioner and learned AC
to AAG 15 for the State.

2. In terms of the order of the learned Single Judge
which has been affirmed by the Division Bench and also not
interfered by the Hon'ble Supreme Court, the case of the petitioner
had to be considered for absorption in regular government service,
subject to him being found working for three years continuously at
the time when the non-formal education scheme was abolished in
which he had worked. Such absorption was to be as per the
vacancies available in different Departments.



3. In the supplementary show cause filed on behalf of the opposite party no. 3, at paragraphs no. 14 and 15, the following has been stated:

“14. That it is stated that the District Programme Officer (Literacy), Bhagalpur vide letter no. 131 dated 02.05.2019 send the report, sought for, to the department. In view of the said report the name of the petitioner has put at the appropriate place under the State list after removing his name from the objection list. The name of the petitioner is at serial no. 110 under BC-1 category in the State list.

15. That it is stated that the name of the petitioner would further be recommended for appointment, as per the vacancy available, after maintaining the seriatim, as per the direction of this Hon'ble Court passed in M.J.C. No. 3471/2012, 433/2017 and 1766 of 2017. The said orders are already on record.”

4. Having regard to the aforesaid, the Court finds that the orders of the Court have finally been implemented and the appointment, but obviously can be made only on vacant and sanctioned posts available under the State Government. In the aforesaid supplementary show cause the authorities have themselves taken the stand that further recommendation would be made as per the vacancies available after maintaining seriatim, that too, in terms of the direction of the Court in MJCs. No. 3471 of 2012; 433 of 2017 and 1766 of 2017.



5. The Court would note that such stand of the authorities is justified in view of the order dated 31.01.2018 passed in MJC No. 3471 of 2012 which reads as under:

“Contempt Application stands disposed off now with a clear direction upon the Director, Mass Education, Government of Bihar, Patna that he should proceed in accordance with the seriatim and vacancies, as and when they are available. He assures the Court that no jumping of queue will be permissible and every person’s turn will come according to the seniority in the wait list. It goes without saying that no soon turn of the petitioner comes, he should beget the suitable appointment.

Contempt Application stands disposed off with observation/direction as above.

Personal presence of the Director is dispensed with.”

6. Thus, it is obvious that the Court while considering the issue had directed that the authorities would proceed in accordance with law with the seriatim and vacancies as and when they are available and that there would be no jumping of the queue.

7. In view thereof, the application stands disposed off with the observation that the authorities shall abide by the directions of the Court as also their own stand, as recorded hereinabove.

(Ahsanuddin Amanullah, J)

Anjani/-

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