

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.500 of 2017

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Annu Sharma, Wife of Birendra Kumar Sharma, Resident of Madhopur P.S. Anjanakot, P.S. - Motipur, District - Muzaffarpur, presently posted as Panchayat Teacher in Primary School, Madhopur, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
 2. The Director, Primary Education, Govt. of Bihar, Patna.
 3. The District Magistrate, District - Muzaffarpur.
 4. The Member District Teacher Appellant Authority, Muzaffarpur.
 5. The District Education Officer, Muzaffarpur, District - Muzaffarpur.
 6. The District Programme Officer, Muzaffarpur, District - Muzaffarpur.
 7. The Block Development Officer, Motipur, District - Muzaffarpur.
 8. The Mukhiya Gram Panchayat Raj, Bariyarpur East, P.S. - Motipur, District - Muzaffarpur.
 9. The Panchayat Secretary, Gram Panchayat Raj, Bariyarpur East, P.S. - Motipur, District - Muzaffarpur
 10. Kumkum Kumari, W/o Shiva Choudhary, Resident of Village P.O. - Anjanakot, P.S. - Motipur, District - Muzaffarpur.
 11. Tabasum Jahan D/o Md. Anwar
 12. Saista Praveen, D/o Atta Hussain
- Respondent No. 11 and 12 are resident of village P.O. +P.S. - Motipur, District - Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Adv.
Mr. Aditya Narayan Singh, Adv.
For the Opposite Party No.11: Mr. Krishna Kant Singh, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
CAV ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

9 13-02-2019 We have heard Sri. P. K. Shahi, learned senior counsel for the petitioner and Sri Krishna Kant Singh, learned counsel representing the private respondent no.11 as also learned counsel representing the State.

This review application has been preferred seeking



review of the order dated 29.11.2017 passed in LPA No.195 of 2016 by which the Hon'ble Division bench has refused to interfere with the order of the learned Writ Court in CWJC No.971 of 2013. Before we proceed to deal with the review application, let it be recorded that the judgment under review was challenged before the Hon'ble Supreme Court in Special Leave Petition (Civil) (Diary No. 19125/2018) which was heard by the Hon'ble Apex Court. The Special Leave Petition was sought to be withdrawn by the petitioner with liberty to file a review petition before this Court. Since liberty has been granted to the petitioner to file this review application, we have taken up the same for consideration.

Learned senior counsel representing the petitioner has raised a two fold argument for review.

The first ground for review is that the learned Single Judge while hearing writ application committed an error of record in paragraph 25 of the judgment under appeal and the same has been taken as a ground for rejection of the Letters Patent Appeal by the Hon'ble Division Bench. The attention of this Court has been drawn towards quoted paragraph 25 particularly 25 (i), (ii) and (ix) which are quoted hereunder for ready reference:-



“(i) The three out of five members of the Panel Preparation Committee, namely, Mukhiya, the nominated member of Education Committee of Panchayat and the nominated member of Education Department vide Rule 9(vii)(Kha)(i) (ii) and (iv) had never participated in the process of selection.

(ii) The entire so called selection was made by two members of the Panel Preparation Committee namely Panchayat Sachiv and one member of Panchayat.

(ix) The decision taken in the resolution no.4 dated 22.12.2006, of the meeting attended by Panchayat Secretary and a member of Panchayat for obtaining instruction from the higher authorities as with regard to filling up the post of teacher of the Extremely Backward Female Category as also the reserved female and Scheduled Caste Category was also surreptitiously ignored by all of a sudden selecting the petitioner and Smt. Mala Kumari as also one Anita Kumari for their appointment by making interpolation in the proceedings dated 28.12.2006.”

Learned senior counsel submits that the learned writ court has wrongly recorded that three out of five members of the Panel Preparation Committee had never participated in the selection process and the entire selection was made by two



members of the Panel Preparation Committee namely Panchayat Sachiv and one member of the panchayat. It is also submitted that there was no candidate namely Smt. Mala Kumari, therefore the learned Writ Court has committed an error of record while taking note of the fact that this petitioner was selected along with one Smt. Mala Kumari and one Anita Kumari.

The second ground for review is that the learned writ court could not appreciate that the State Government has recognized the degrees of 'Deoghar Hindi Vidyapeeth' granted prior to the judgment of this Court in the case of **Reeta Srivastava Vs. the State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna and others** reported in **2012(3) PLJR 353**.

As against the submissions of learned senior counsel representing the petitioner, Mr. Krishna Kant Singh, learned counsel for the private respondent has vehemently argued that there is no error apparent on the face of the record in the judgment of the Hon'ble Division Bench of this Court which is under review. Learned counsel submits that in fact the findings which have been recorded by the learned Single Judge are the



findings of the District Teachers Employment Appellate Tribunal, Muzaffarpur in Case No.1921 of 2009. The order passed by the Tribunal is available at Annexure- '6' to the writ application. It is submitted that the Tribunal had gone into the original records of counselling and held that there were interpolations at several places in the records. One of the candidates Smt. Anita Kumari who was not an applicant of the said Panchayat and whose name was not there in the merit list was called in counselling at the instance of Block Education Extension Officer, Motipur. The name of this petitioner was in the category of Extremely Backward Class candidate (untrained) and her name was much below in the merit list, moreover her eligibility was also suspicious. The Tribunal also recorded that as per the prescribed rules, the Selection Committee was not in attendance. Presence of Up-mukhiya in the Selection Committee establishes that the entire proceedings are suspicious. Up-mukhiya is not a member of the Committee in terms of the Rules prescribed. The other two members namely Member of the Panchayat Samiti whose maximum area fall in the said Panchayat and one teacher of the Panchayat or nearest Middle School of that area nominated by the District Education Officer in terms of Rule 9 (vii) (ख) of the



Employment Rules, 2006 were admittedly not present. It is further submitted that in clause (ix) the correct name 'Bala Kumari' has been wrongly typed as 'Mala Kumari'. This is nothing but a typographical error in the order.

As regards the second ground, learned counsel submits that Deoghar Hindi Vidyapeeth is not an educational institution imparting education and in the case of **Reeta Srivastava** (supra), this Hon'ble Court has taken note of the said institution and held that degree granted by the said institution shall not be a degree for purpose of recruitment. In this regard learned counsel relied on paragraph 26 and 27 of the judgment which are as under:-

"26. Before parting this Court cannot stop itself from observing that when an effort was made to obtain information on the World Wide Web i.e. Internet with regard to the institution known as Hindi Vidyapith, Deoghar, with due respect nothing was found on the net. In the 21st century, an institution which is issuing degrees to a large number of students and who are claiming benefit from such degrees has no portal or domain name where people can derive information about the institution freely. The only material which this Court could find on the Internet was a blog site where scanned copies of the degrees which are issued by the said institution have been displayed prominently without any information, background about the



institution, the facilities, the infrastructure or the people who are at the helms of affairs which could lend credibility to the said institution. Obviously, over a period of time such institution namely, Hindi Vidyapith, Deoghar has been fishing in muddied water.

27. To sum up therefore, this Court categorically holds that a Sahityalankar degree is not equivalent to graduation and no holder of a degree of Sahityalankar; therefore, can claim the benefit of promotion to the Subordinate Education Service as a matter of right. The recognition if at all given by the State is with a limited object which has been talked about earlier, that is for the purpose of qualifying any Hindi examination and drawing advantage thereof in service and not to beget appointment based on the eligibility laid down for such recruitment or promotion by treating such degree to have equivalence.”

Upon hearing learned counsel for the parties and on perusal of the records particularly looking to Annexure- ‘26’ to the show cause (seems to have been wrongly described as show cause as it appears to be a supplementary affidavit of the petitioner) we find that in the meeting held on 25.10.2006 Up-mukhiya was present and he is said to have chaired the meeting. He could not have been the member of the Selection Committee. In these circumstances, we find that the learned Tribunal as well as the learned Writ Court has not committed any error in holding that three out of five members of the



Committee were not present in the matter and the selection was done only by two members of the said Committee.

We also find that there are categorical findings of interpolation at various places in the records of counselling. These findings of interpolation in the records cannot be interfered with in the review jurisdiction. We are thus convinced that the learned Single Judge as well as the Hon'ble Division Bench has rightly recorded the findings in their respective judgments. Since the first ground of review fails, we need not go into the second ground taken on behalf of the review petitioner which in our opinion no longer remains significant because very selection process through which the petitioner got her appointment has been found to be vitiated and marred by interpolation in the records.

The review application has no merit. It is dismissed accordingly.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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