

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7310 of 2018**

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Naina Kumari D/o Sri Indrajit Badghadiya a resident of Village - Kerai, P.O. P.S. - Naurangia, District - West Champaran, At present residing in Hostel Rajkiya Yugal Sah Janjati Balika Uchha Vidyalaya, Harnatand, Bagha - 2, District - West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Bihar, Patna
2. The Director, Secondary Education to the Government of Bihar, Patna.
3. The Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, West Champaran, Bettiah.
4. The District Education Officer, West Champaran, Bettiah.
5. Rajkiya Yugul Sah Janjati Balika Uchha Vidyalaya, 10+2 Harnatand, West Champaran through its Principal.
6. Smt. Chanmati Devi, the then Secretary, Yugul Sah Janjati Balik Uchha Vidyalaya, Harnatand and Tharuhat Mahila Vikash Sanstha, Harnatand, West Champaran at present residing at Village-Binwalia, P.O.-Sidhaon, P.S.-Loukaria, District-West Champaran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Nitesh Kumar  
For the Respondent/s : Mr.Prabhakar Jha -Gp27

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL JUDGMENT**

**Date : 14-05-2019**

The present writ petition has been filed for directing the respondents to absorb the petitioner in the services of the Respondent-School as Teacher in English subject and pay her salary from the date when the Respondent-School was declared a Government School i.e. with effect from 29.7.2013.

2. The brief facts of the case, according to the petitioner, are that in the year 2010, the School in question started functioning



under the management of Tharuhat Mahila Vikash Trust. The petitioner was permitted to work as a teacher upon an application given by her dated 26.4.2011. It is the case of the petitioner that she was permitted to teach the girl students of the Respondent-School with effect from 10.5.2010, however, no appointment letter was further issued to her. Subsequently, the Executive Committee of the School is said to have appointed the petitioner as a teacher in the said School with effect from 26.7.2012 and thereafter, her appointment was approved by the Executive Committee in the year, 2013. It has been further contended on behalf of the petitioner that though the case of the petitioner was recommended for adjustment / absorption in the services of the Respondent-School by the District Education Officer vide letter dated 18.8.2015, no steps have been taken to regularize the services of the petitioner herein despite the fact that she is a person with disability. It has been also contended that the petitioner has been making regular representations before the concerned authority for her regularization, but to no avail.

3. Per contra, the learned counsel for the respondents, referring to the counter affidavit filed by the District Education Officer, West Champaran, Bettiah, has submitted that for the



purposes of selection / adjustment of teaching and non-teaching staffs of the School in question, an inquiry was conducted by the District Education Officer, West Champaran as well as by the District Programme Officer (Secondary Education), West Champaran on 16.8.2015 and a report was prepared wherein the name of the petitioner also finds place and thereafter, the said list of teaching and non-teaching staffs were sent to the D.D.C. cum Chief Executive Officer, Zila Parisad, West Champaran alongwith its copies to the concerned authorities vide Memo No. 499 dt. 18.8.2015. The D.D.C. cum Chief Executive Officer, Zila Parisad, West Champaran found that the petitioner was not eligible for being appointed on the post of English teacher since her date of birth was 17.7.1991 and at the time of her appointment on 26.4.2011, her age was only 19 years, 9 months and 9 days whereas according to Section 4 (III) (ga) of the Niyojan Rule, the minimum age for appointment should be 21 years, hence, the case of the petitioner was rejected. The aforesaid D.D.C., West Champaran found three teachers to be eligible amongst nine teachers during the course of counselling and six teachers including the petitioner herein were declared as not eligible, which was reported to the District Education Officer, West Champaran vide memo dated 31.8.2015 issued by



the D.D.C., West Champaran. Thereafter, a committee was constituted under the chairmanship of the Director (Secondary Education), Government of Bihar, Patna vide order dated 25.11.2016, whereafter the said committee had inquired into the issue of adjustment of teachers of Yugul Sah Janjati Balika Uchha Vidyalaya, Harnatand and it was found that the appointment of the petitioner has not been made by the managing committee of the School and there was no evidence with regard to the appointment process having been undertaken for the purposes of appointment of the petitioner in accordance with law. The said findings of the committee was confirmed by a three men committee constituted under the chairmanship of the Special Secretary, Education Department, Government of Bihar, Patna and it had forwarded its report dated 3.1.2018 to the Director, Secondary Education, vide memo dated 15.1.2018 wherein the claim of the petitioner including four others were found to be invalid except one teacher, namely, Amarjeet Singh. Thereafter, the Director, Secondary Education, vide letter dated 23.2.2018 had informed the District Education Officer, West Champaran with regard to the rejection of the case of the petitioner for absorption as a teacher.

4. The learned Senior Counsel appearing for the petitioner



has contended that the three men committee headed by the Special Secretary, Education Department, Bihar was constituted to review the earlier report and the said committee was never constituted for scrutinizing the previous appointments of the teachers. It is further submitted that the committee had never given an opportunity to the petitioner to participate in the proceedings of the said committee, hence, the report of the said committee is bad in the eyes of law.

5. I have heard the learned Senior Counsel for the petitioner and the learned counsel for the respondents and I find that the three men committee headed by the Special Secretary, Education Department, Government of Bihar, Patna has, upon consideration of the entire materials pertaining to the School in question, as also pertaining to the petitioner herein, submitted a conclusive report dated 3.1.2018 wherein it has been found that neither there is any evidence of the petitioner having been validly appointed nor her name has been found in the attendance register with effect from 1.4.2011 nor there is any evidence of payment of salary to her and lastly, there is no evidence to show that the required procedure of appointment has been followed as per the prevailing law, as far as the petitioner is concerned, as such, the said committee had come to a conclusion that the



appointment of the petitioner has not been done by the managing committee. It is clear from the records of the present case that the petitioner has neither challenged the aforesaid report dated 3.1.2018 nor the letter of the Director (Secondary Education), Education Department, Bihar, Patna dated 23.2.2018 whereby and whereunder it has been communicated to the District Education Officer, West Champaran that the claim of the petitioner for absorption / adjustment has been found to be not admissible.

6. In such view of the matter, this Court finds that the report of the three men committee dated 3.1.2018 remains unchallenged, hence, the finding of facts, having not been disputed by the petitioner herein, has attained finality, thus, this Court finds that there is no merit in the present writ petition, accordingly, the writ petition stands dismissed.

**(Mohit Kumar Shah, J)**

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