

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19321 of 2019

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Krishna Kant Tiwari, Son of Late Devi Din Tiwari, Resident of Village and
P.O.- Gosiya, P.S.- Manjhagarh, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Bihar Sanskrit Siksha Board, Patna through the Chairman 17, Harding
Road, Rajbansi Nagar, Patna.
3. The Chairman, Bihar Sanskrit Siksha Board, Patna 17, Harding Road,
Rajbasi Nagar, Patna.
4. The Secretary, Bihar Sanskrit Siksha Board, 17, Harding Road, Rajbasi
Nagar, Patna.
5. The District Magistrate, West Champaran, Bettiah.
6. The District Education Officer, West Champaran, Bettiah.
7. The District Programme Officer (Establishment), West Champaran, Bettiah.
8. The Block Education Officer, Bettiah Block, West Champaran.
9. The Managing Committee of Sri Laxmi Kunwar Primary-cum- Secondary
Middle School, Lal Bazar, Bettiah, West Champaran through its Principal.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Kaushik, Advocate
For the Respondent/s : Mr. Umesh Narayan Dubey, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 23-09-2019 Heard learned counsel for the petitioner and the
respondents.

2. Mr. Kumar Kaushik, learned counsel for the
petitioner submits that the service of the petitioner has been
dispensed with without compliance of principle of natural
justice. He submits that the allegation against this petitioner is
that he has obtained Matriculation certificate as well as



Madhyama certificate and there is difference of four years in the date of birth in the Matriculation Certificate and Madhyama Certificate. Based on such discrepancy, the service of the petitioner has been dispensed with.

3. So far as the issue with regard to principles of natural justice is concerned, the Court is of the considered view that it would be useless practice to strictly adhere to the principles of natural justice, if party by giving any kind of hearing cannot improve their case.

4. Mr. Kumar Kaushik, learned counsel admitted that difference of date of birth in the Matriculation certificate and the Madhyama certificate is not disputed by the petitioner and he is prepared to accept the date of birth as entered in the Matriculation certificate and for the purpose of continuance of job he may be subjected to superannuate on the basis of the date of birth mentioned in the Matriculation certificate.

5. If only the date of birth is the issue in the process of scrutiny of validity of appointment, then this Court would have condoned the discrepancy in the date of birth by directing the respondents to treat the date of birth entered in the Matriculation certificate, as the conclusive fact for entry in the service and superannuation, but the difference in the date of birth in both the



certificates is not only the issue.

6. The other issue involved in the present case is whether on the strength of Matriculation marks and certificate the petitioner would have been selected or not is also relevant issue for consideration.

7. Considering the aforesaid, the Court direct the respondents to examine the record and if in the process of scrutiny it is found that even on the strength of Matriculation certification, the petitioner is still within the zone of consideration for appointment, the petitioner may be allowed to continue in job notwithstanding the fact that he has obtained appointment on the basis of Madhyama certificate and mark-sheet. If finding is otherwise i.e. the Matriculation certificate does not render the petitioner entitled for his selection, then the respondent may be at liberty to take appropriate fresh decision indicating the position of the petitioner on the basis of marks obtained in the Matriculation examination ignoring the marks obtained in Madhyama examination.

8. Necessary decision afresh in this regard may be taken by the respondents within a maximum period of three months from today.

9. In the event, the marks obtained in Matriculation



does not alter his position, the petitioner may be retained on the post with continuity, otherwise his service may be dispensed with.

10. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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