

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23513 of 2019

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Nand Kishore, Son of Sri Gyani Bhagat, Resident of Village- Ganespur, P.S. Belsand, District- Sitamarhi (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector cum District Officer, Sitamarhi.
4. The District Education Officer, Sitamarhi.
5. The District Programme Officer, Sitamarhi.
6. The Block Education Officer, Belsand, District- Sitamarhi.
7. The Mukhiya, Gram Panchayat Dumra (Nunuara), P.S. Belsand, District- Sitamarhi.
8. The Panchayat Secretary of Gram Panchayat Dumra (Nunaura) cum Secretary, Panchayat Teacher Niyojan Unit, Dumra (Nunuara), P.S. and Block- Belsand, District-Sitamarhi.
9. The District Teachers Employment Appellate Authority, Sitamarhi, District -Sitamarhi.
10. Birendra Kumar, S/o Ramdeo Rai, R/o Village and P.O. Pachnaur, P.S. and Block Belsand, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh
For the Respondent/s : Mrs.Smt.Binita Singh (SC28)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 28-11-2019 Heard both sides.

The petitioner by filing this writ petition prays to quash the judgement and order dated 01.10.2019 (Annexure-11) passed by the Chairperson, State Appellate Authority in Appeal Case No. 244 of 2018 and the order dated 27.11.2017 (Annexure-9) passed by District Teachers Employment



Authority, Sitamarhi by which the District Teachers Employment Authority rejected the petition of the petitioner for his appointment on the post of Panchayat Teacher in place of respondent No.10. Consequently, direction be issued upon the respondents to appoint the petitioner in place of respondent No.10 because the petitioner has got more marks than respondent No.10 in Intermediate examination.

The sole question arises for consideration whether the petitioner has got more marks than respondent No.10 in Intermediate examination and the Panchayat Selection Committee has illegally appointed respondent No.10 ignoring the claim of the petitioner.

The facts, bereft of unnecessary details but relevant for disposal of this case, are that the petitioner, respondent No.10 and others are applicants for appointment on the post of Panchayat Teacher in Gram Panchayat, Dumra Nunaura situated in block Belsand, district Sitamarhi. The petitioner and respondent No.10, Birendra Kumar, belonged to the BC category in which there were two posts. The respondent No. 10 obtained 602 marks out of 1000 marks in the Intermediate examination which is equivalent to 60.20% and, accordingly, respondent No.10 indicated his marks in the application form as



60.20% and his name appeared at serial No. 25.

The learned counsel for the petitioner submits that the petitioner claimed that he got 61.88% marks in the Intermediate examination and he obtained more marks than respondent No. 10 who got 60.20% marks but the Selection Committee illegally appointed respondent No. 10. It is further submitted that the District Teachers Employment Authority has illegally held that respondent No. 10 got 557 marks out of 900 marks which comes to 61.88% and respondent No. 10 got more marks than petitioner who got 61.77% marks. The District Teachers Employment Appellate Authority further held that the appointment was made in the year 2006 but the petitioner filed the case only after 11 years and no satisfactory explanation was given. It is further submitted that the learned Chairperson, State Appellate Authority held that the petitioner did not appear in the counseling held between 01.12.2006 and 10.12.2006 but the finding is erroneous as name of the petitioner appeared at serial No. 29 in the panel prepared by the Selection Committee, Gram Panchayat, Dumra Nunaura and this fact shows that the District Teachers Employment Appellate Authority has misrepresented the facts before the State Appellate Authority and both the orders are liable to be set aside.



Having considered the submissions and after perusing the records, it appears that petitioner, respondent No.10 along with others are applicants for appointment on the post of Panchayat Teacher in Gram Panchayat, Dumra Nunaura. The respondent No. 10 showed that he got 602 marks including the marks in optional subject and passed in the 1st division. The petitioner got 556 marks out of 900 marks after excluding the marks obtained by him in optional subject. The respondent No. 10 got 557 marks after excluding the marks obtained in the optional subject. From the panel prepared by the Selection Committee (Annexure-5), it appears that name of respondent No. 10 appeared at serial No. 25 and he obtained 557 marks out of 900 and his percentage of marks was 61.88% whereas the name of petitioner, Nand Kishore, appeared at serial No. 29 and he obtained 556 marks out of 900 and his percentage of marks was 61.77%. The petitioner and respondent No. 10 belonged to the same category, therefore, the person who obtained higher marks in Intermediate examination was appointed. It appears that the Selection Committee for appointment on the post of Panchayat Teacher in Gram Panchayat, Dumra Nunaura held at the first instance that respondent No. 10 wrongly mentioned the percentage of marks obtained by him including the marks



obtained by him in optional subject as 60.20% and this mistake of the respondent No. 10 was rectified by the Selection Committee and the Selection Committee prepared the panel excluding the marks obtained in the optional subject.

Having considered the fact aforesaid, I find no illegality in the order of the State Appellate Authority as well as in the order of District Teachers Employment Authority. This writ petition is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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