

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.334 of 2019

In

Civil Writ Jurisdiction Case No.802 of 2016

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Phool Kumari Devi W/o Dashrath Rai resident of village - Parsa, P.O. -
Amardah, District - Saran at Chapra.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna
2. The Commissioner, Saran Division, Chapra
3. The District Magistrate, Saran at Chapra
4. First Appellate Authority-cum- District Programme Officer, Saran at Chapra
5. Asha Kumari Rai W/o shri Pramod Kumar Rai Resident of Village-Parsa P.O. Amardah, Dist.-Saran at Chapra

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Kumar Singh, Adv
For the respondent no. 5 : Mr. Raju Giri, Adv & Mr. Santosh Kumar Mishra,
Adv
For the State : Mr. Gyan Prakash Ojha (GA7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 03-02-2021

Heard the parties.

Being aggrieved by judgement and order dated 28.11.2018 passed in C.W.J.C. No. 802 of 2016 passed by learned Single Judge of this Hon'ble Court by which writ petition was allowed in favour of petitioner Asha Kumari. Present LPA has been preferred by respondent no. 5 Phool Kumari.

Briefly stated, the facts of the case is that



applications were invited for selection on the post of Anganbari Sevika for the Centre No. 2 Ishuapur Block in Saran district and for which Aam Sabha was held on 11.04.2007 in which appellant was selected and against her selection, writ petitioner filed a complaint before the District Magistrate, Saran. District Magistrate, Saran, cancelled the selection of appellant and in compliance of which, appellant was removed by order dated 01.12.2008 passed by D.P.O.

Aggrieved by her removal, appellant preferred appeal in the court of Commissioner, being Anganbari Appeal No. 13 of 2010 which was allowed on 28.12.2010 on the ground of non compliance of principles of natural justice as well as violation of guideline issued on the subject and the matter was remitted to the District Magistrate, Saran, however, in view of fresh guideline issued by the department, same was sent to D.P.O.(ICDS) (Appellate Authority) and after hearing both the parties vide order dated 30.10.2015 DPO(ICDS) services of writ petitioner was terminated and appellant was reinstated on the post of Anganbari Sevika, which was challenged before this Court by writ petitioner in CWJC No. 802 of 2016, and same was allowed by the learned Single Judge by his order dated 28.11.2018 as impugned in this LPA on the ground that



appellant-respondent does not possess the requisite qualification for being appointed as Anganbari Sevika, as she possessed degree obtained from Hindi Sahitya Sammelan, which is not recognized as equivalent certificate of graduation by State of Bihar.

A Division Bench of this Court in the case of **State of Bihar & Ors vs Mamta Kumari** since reported in **2010(4) PLJR 318**, in paragraph 27 & 30 has held as follows:-

“27. At this place, it is also very significant to note here that similar question with regard to the equivalence of qualification of Hindi Sahitya Sammelan, Allahabad for the purposes of admission in nursing courses in the State of Rajasthan has been decided by the Apex Court in the case of State of Rajasthan & Ors. vs. Lata Arun reported in (2002)6 SCC 252 wherein a Madhyama Certificate issued by Hindi Sahitya Sammelan, Allahabad in the year 1984 was pressed for the purposes of seeking admission by one Lata Arun was rejected by the Apex Court after recording the stand of the Deputy Secretary, Association of Indian Universities, New Delhi to the effect that Hindi Sahitya Sammelan, Allahabad is one of the voluntary Hindi institutions set up for promotion of Hindi and its examinations are not to be equated with the regular examinations of secondary boards/universities and only the standard of Hindi, of its examinations is accepted.

30. This Court is also not impressed with the submissions of the learned counsel for the respondents writ petitioners that it was only on



25.8.2008 that the State Government had issued an order naming the institutions and a degree which were not to be taken into consideration for appointment on the post of Teachers in Panchayat/Prakhand/Nagar Panchayat in terms of the Bihar Panchayat Prarambhik Shikshak (Niyojan & Seva Sart) Sanshodhan Niamawali, 2008 and Bihar Nagar Nikaya Prarambhik Shikshak (Niyojan & Seva Sart) Sanshodhan Niamawali, 2008. It is true that the Government by the aforementioned order dated 25.8.2008 had circulated names of 28 institutions and their qualifications to be not equivalent to Matriculation/Intermediate including Hindi Sahitya Sammelan, Allahabad but then that was in keeping with a forged letter circulated earlier on 23.2.2007 describing the certificate of Prathma/Madhyama (Visharad) from Hindi Sahitya Sammelan, Allahabad to be equivalent to Matriculation and Intermediate, whereafter, it was thought necessary to give exhaustive list of such institutions and their qualification which were not to be taken into account for appointment on the post of Teachers in Panchayat, Prakhand and Nagar Panchayat. Prescription of such qualification in order to remove confusion created by act of forgery cannot be said to be only prospective in nature and at least the respondent writ petitioners cannot draw any advantage on the basis of the same specially when they have failed to produce a chit of paper to show that any point of time, the Madhyama (Visharad) examination conducted by the Hindi Sahitya Sammelan, Allahabad was recognized as an equivalent qualification of the Intermediate for the purposes of appointment of Teachers in the State of Bihar.”

After hearing both the parties and considering the



materials available on record, this Court does not find any infirmity or error in the order passed by learned Single Judge, requiring any interference by this Court.

The LPA is accordingly, dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

