

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1915 of 2012

Bindu Kumari, D/o Jageshwar Sah, Resident of Village - Larkaniya Tola, P.S. -
Katihar, District - Katihar

.... Appellant

Versus

1. The State of Bihar through The Principal Secretary, Human Resources Department, Govt. of Bihar, Patna
2. The Director, Primary Education, Govt. of Bihar, Patna
3. The District Magistrate, Katihar, District - Katihar
4. The District Superintendent of Education, Katihar
5. The District Teacher Employment Appellate Authority, Katihar Through its Chairman
6. The Block Develop Officer, Pranpur Block, District - Katihar
7. The Block Education Extension Officer, Pranpur, Distt. - Katihar
8. The Mukhiya Gram Panchayat Raj, Bastol, Block - Pranpur, Distt. - Katihar
9. The Panchayat Secretary, Gram Panchayat Raj Bastol, Block Pranpur, Distt. - Katihar
10. Bibha Kumari, D/o Shri Shambhu Prasad Yadav, R/o Mohalla - Laliyahi Ward No. 3, Sahayak Mirchaibari, Distt - Katihar

.... Respondents

Appearance :

For the Appellant : Mr. Sharda Nand Mishra, Advocate.
Mr. Harish Chandra Patel, Advocate.
Mr. Rajiv Ranjan, Advocate.

For the Respondents : Mr. Anjani Kumar, A.A.G. 6
Mr. Deepak Sahay Jamuar, A.C. to A.A.G. 6

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 03-03-2016

Heard learned counsel for the appellant and the respondents.

2. The challenge in the present Letters Patent Appeal is to an order dated 28th of March, 2012 passed in C.W.J.C. No. 16314 of 2011, whereby the writ application filed by the appellant stands dismissed.

3. One Bibha Kumari was selected and appointed as Panchayat Teacher but she was removed by the Panchayat on the ground that she had a vocational course

degree which is not recognized by the State to be a valid degree. However, the High Court previously in C.W.J.C. 10203 of 2007 declared that a vocational degree is equivalent to Intermediate Degree. Therefore, a person having vocational degree is also eligible for appointment. The State decided to reinstate all those persons who were removed on that ground. In the meantime, on account of the ouster of Bibha Kumari, the present appellant was appointed.

4. In view of the decision of the State Government in terms of the direction of this Court, services of the appellant have been dispensed with whereas Bibha Kumari was ordered to be reinstated.

5. The appointment of the appellant was against the vacancy caused on account of removal of Bibha Kumari for the reason that she does not possess the educational qualification but consequent to the decision of this Court, she is eligible and has been reinstated. Since the vacancy was filled up by the appellant on account of ineligibility of Bibha Kumari, once she is declared eligible, appellant has to make way for the suitable candidate.

6. We find no infirmity in the order passed by the learned Single Bench. The letters patent appeal is, thus, dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

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