

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6547 of 2021

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Chandra Kala Devi @ Chandra Kala Kumari, aged about 48 yrs (F), W/O
Rajendra Ram, R/V- Naya Bazar, P. S. - Saharsa, District - Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through the Commissioner, Kosi Division, Saharsa.
2. The District Magistrate, Saharsa.
3. The Dy. Collector Establishment, Saharsa.
4. The Block Development Officer, Saur Bazar, District - Saharsa.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Ajay Kumar, Adv.
For the State	:	Mr. Anjani Kumar Sr. Adv. with Mr. Sheo Shankar Prasad SC-8

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
CAV JUDGMENT

Date : 02-09-2022

Heard learned counsel for the petitioner and learned
senior advocate for the State.

2. By the impugned order dated 17-09-2020, issued by
the District Magistrate, Saharsa, petitioner's services as a Class-
IV employee has been brought to an end w.e.f. 22-11-2019 being
the date on which the petitioner was appointed under order of the
District Establishment Section by the Collectorate of Saharsa
under the signature of the District Magistrate, Saharsa. She has
assailed the order.

3. Pursuant to advertisement(s) issued for appointment
on Class-IV post, the petitioner made her application. A Panel was
prepared, wherein, the petitioner's name figured at Sl. No. 161.



The petitioner, thereafter, was called upon to submit her educational and other certificates in original with self attested photographs etc., all of which were submitted by the petitioner. Thereafter, the appointment order dated 22-11-2019 was issued declaring the petitioner to be appointed, but subject to 14 conditions contained therein.

4. Facts relevant to the issue is that the petitioner had submitted her application in response to the Advertisement No. 0.C./03/2006 of the year 2006, when she was having the Educational Qualification of 8th pass. The process of selection was continued for a long time due to unavoidable reasons. In the meantime, petitioner had passed *Madhyama* examination.

5. During verification of her educational qualification, it was found that the School Transfer Certificate, submitted by the petitioner, corresponding to her Educational Qualification of 8th pass, was found to be forged and not genuine, as per report submitted by the Headmaster of the School vide letter dated 11-07-2020. The petitioner, thereafter, was afforded an opportunity of submitting her show cause. The petitioner has replied to the show cause which has been received in the office of the District Magistrate on 24-08-2020 (Annexure-13). The petitioner has denied the allegation of Transfer Certificate being false/forged or



fabricated. She has stated that the Transfer Certificate is valid. The headmaster of the School may have submitted a report without going through the relevant records, since the Certificate was nearly 35 years old. It is the petitioner's case that the Headmaster has not made sufficient efforts to locate it with reference to the registers relevant to the period when the Certificate was issued. She has submitted that for such omission on the part of the Headmaster, the petitioner should not be made to suffer and that the Transfer Certificate be re-verified from the School/ office of District Superintendent of Education, Saharsa with reference to all the available records. The petitioner's show-cause has not found favour with the Authority and, accordingly, the impugned order has been issued.

6. Before this Court it is submitted that the first application submitted by the petitioner was in the year 2006. Since the selection process has unnecessarily been prolonged over years, the Rules of selection had undergone a change. As per advertisement published on 29-09-2013, Educational Qualification requirement was 10th pass in respect of the Selection Process, pursuant to which, the petitioner has been selected. The petitioner having acquired 10th pass (*Madhyama*) Certificate on 08-08-2013 has submitted the *Madhyama* Certificate and, therefore, the



respondents, can not be permitted to rely upon findings of the petitioner's Transfer Certificate being forged so as to disqualify the petitioner and disallowed her appointment, more so, since now the basis of appointment was 10th pass. Learned counsel has also relied upon a recent judgment of this Court passed in C.W..J.C. No. 2246 of 2021, wherein, the order terminating the services on the ground of submission of false/ fake document at the time of selection has been quashed since the same was not preceded by any compliance with the principles of natural justice. The petitioner's case in the opinion of this Court is covered by the said decision.

7. Learned State counsel has submitted that the petitioner has been appointed on the basis of Educational Qualification possessed by her at the time of her application 2006, being 8th pass. Since the selection process was prolonged on account of various reasons, including the judicial orders for allowing more and more candidates to participate, the minimum Educational requirement has changed. The petitioner and others, however, who have been selected based on the application in the year 2006, were selected on the basis of the minimum Educational Qualification, requisite at the time of their application. The petitioner, therefore, having submitted a forged Transfer



Certificate cannot take shelter behind the *Madhyama* Certificate acquired subsequent to her application as the same did not form the basis of her selection and issuance of appointment order dated 22-11-2019. The appointment order itself was conditional. One of the conditions was that the Educational Qualification etc., were to be verified and if during verification, the same was found to be in any manner false, forged or fabricated then the consequence of cancellation/termination of appointment was to follow. The petitioner has been allowed an opportunity of show cause also. The plea raised by the petitioner that the Certificate should be subject to re-verification by the School/ office of District Superintendent of Education does not merit any consideration. Such exercise has already been undertaken.

8. This Court would find that the conclusion regarding the Transfer Certificate being fake or forged was required to be preceded by an enquiry in accordance with the principles of natural justice, which clearly has not been done. The petitioner's request for re-verification of the Transfer Certificate was also required to be considered by the respondent Authority as the consequences of the verification was the extreme consequence of the petitioner being deprived of her selection/appointment. The Court, would, thus, conclude that the Authority i.e. District



Magistrate, Saharsa (Respondent No.2), must have the Transfer Certificate submitted by the petitioner verified once again with the School as well as office of the District Superintendent of Education, Saharsa and, in the event, the report is still against the petitioner then the District Magistrate, Saharsa would be required to initiate an enquiry in the matter and only after affording due opportunity of hearing to the petitioner, a decision should be taken expeditiously. Since no enquiry in compliance with the principles of natural justice has preceded, the impugned order dated 17-09-2020, the same, insofar as the petitioner is concerned, is hereby quashed.

9. The Authority should proceed with the exercise, as indicated above, immediately upon receipt/production of a copy of this order and all endeavour should be made to complete the exercise in accordance with law within a period of six months.

10. The writ application stands allowed in the terms noted above.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	25-08-2022
Uploading Date	23-09-2022
Transmission Date	N/A

