

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18280 of 2018

=====

Nusrat Sabreen D/o Md. Haslim R/o Village Purani Kila, P.S. Siwan Town,
District Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District Magistrate, Siwan.
6. The District Programme Officer, Hasanpura Block, Siwan.
7. The District Education Officer, Siwan.
8. The Mukhiya, Gram Panchayat Raj, Rajanpura, Siwan.
9. Panchayat Sachiv Secretary, Gram Panchayat Raj Rajanpura, Distirct-Siwan.
10. Sri Din Dayal Singh Ward Member, Gram Panchayat Raj Rajanpura, District-Siwan.
11. Sri Anand Bihari, Assistant Teacher, Primary School Ushari, Gram Rajanpura, District-Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ram Kumar Singh, Adv. Mr. Sujeet Kumar Gupta, Adv.
For the State	:	Mr. Pramod Kumar Singh AC to SC 16

=====

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- | | | |
|---|------------|---|
| 2 | 10-10-2022 | 1. The petitioner by way of this writ petition prays for implementation of the order passed by the District Teachers Appellate Employment Authority, Siwan whereby the appeal of the petitioner was allowed and the respondents were directed to consider the case of the petitioner against the vacancy which had fallen vacant on account of resignation of one Meera |
|---|------------|---|



Kumari.

2. Learned counsel submits that as there was one vacancy available, the respondents ought to have filled the said post by considering the candidature of the petitioner.

3. Learned counsel submits that the employment unit has wrongfully treated all the vacancies to be filled.

4. Learned counsel submits that the petitioner had higher marks than those who were appointed and therefore, the petitioner had an entitlement on the post but on account of the wrongful action of the respondent in treating that there is no vacancy available, the case of the petitioner has not been considered.

5. Learned counsel appearing for the respondents has filed reply and submits that there is no vacancy available against the selection conducted in 2006 and 2008. It is submitted that there were untrained teachers appointed in 2006 and 2008 whereas 2011 rules came into force and implementing RTE and the directions of the NCERT, only trained persons were to be appointed. All the posts which were vacant under the 2006 selections as well as 2008 selections were therefore merged and included in the selections conducted in 2011. Persons who were trained alone, were appointed after 2011. The post which fell



vacant on account of resignation of Meera Kumari also got merged in 2011. In view thereof, the District Education Officer passed an order on 11.05.2017 holding that appointment cannot be given to those who were left out in 2006 and 2008 selections.

6. Learned counsel for the petitioner submits that since he has an order passed in his favour from the District Appellate Authority the respondents were obliged to consider this case against the vacant post. It is with further submission that those persons who were appointed leaving out the petitioner, were having lesser merit than him and therefore the petitioner was entitled to be considered against the said post and the said post could not be treated to be merged in 2011 selections.

7. I have considered the submissions as above. This court finds that the case of the petitioner was left out of consideration at the relevant time when the selections were made in 2008. He was having higher merit than the others who were appointed. The directions issued by the District Appellate Authority were however passed in 2016 since the appeal was preferred by the petitioner in 2015. Delay in filing appeals was however condoned by the District Appellate Authority.

8. Be that as it may, this court is of the view that as



after 2011 only trained persons could be appointed. The petitioner who was admittedly an untrained teacher, cannot be considered for appointment after 2011 on the post of a teacher. The contentions of the respondent's counsel is to be accepted that after 2011 all the post can be filled only by way of trained teachers. While it may be correct that the case of the petitioner was wrongfully denied consideration in 2008, no relief can be granted to the petitioner after 2011 rules had come into force as requirement of trained teacher was enforced. In view thereof, at best the petitioner can claim compensation for her non consideration as against the concerned Gram Panchayat for which he/she would be free to take appropriate steps.

9. However, no relief for consideration for appointment against the post which fell vacant on account of resignation can be given to the petitioner as the said post stood merged in 2011 selections.

10. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

sachin/shaswat
Item No. 23

U			
---	--	--	--

