

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10588 of 2021

Md. Aftab Alam Son of Md. Ataurrahman, resident of Library Building First Floor, Ashok Rajpath, Madarasa Islamia Shamsul Hoda, P.S.-Pirbahore, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Government of Bihar, Patna.
2. Principal Secretary, Administrative Reforms Department, Old Secretariat, Government of Bihar, Patna.
3. Principal Secretary, Education Department, Government of Bihar, Patna.
4. Director (Administration), Government of Bihar, Patna.
5. Bihar Public Service Commission through its Chairman, Bailey Road, Patna.
6. Secretary Bihar Public Service Commission, Bailey Road, Patna.
7. Saiyad Masood Ahamad, Son of Late Maulan Shah Aoun Ahamad, at present working as Incharge Principal of Madarasa Islamia Shamsul Hoda, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pratap Sharma, Adv.
For the State	:	Mr. Kameshwar Kumar (Gp17), Mr. S.K. Ranjan, AC to GP-17
For the B.P.S.C.	:	Ms. Prachi Pallavi, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 09-05-2022 The case is being taken up from defect side.

Learned counsel for the petitioner is directed to submit the original petition along with attested affidavits and also remove all the defects pointed out by the Registry within two weeks from today.



The petitioner by way of this writ petition
has prayed as under:-

“That this writ petition is being filed for issuance of an appropriate writ/writs, order/orders, direction/directions for quashing the appointment of private respondent which has been done by violating the statutory provisions as well as on forged documents and further prayer of the petitioner is for issuance of direction for proper enquiry against the erring respondents who have allowed the private respondent for continuing him on gazetted post on the basis of forged date of birth certificate and for the other necessary relief/reliefs on the basis of facts and circumstances of the case.”

Learned counsel for the petitioner has



submitted that the Advertisement for the post of Assistant Moulvi was notified on 07.07.2004 and the qualifications laid down therein was that person must possess B.Ed qualification as or equivalent qualification.

Learned counsel for the petitioner submits that the petitioner's age has also been wrongly mentioned as 31.12.1973 in the appointment order, whereas his date of birth is 18th September, 1968. The respondents has, therefore, shown wrong date of birth for getting appointment.

Learned counsel submits that the respondents only possess qualification of Diploma in Education and is not B.Ed and his appointment, therefore, was wrongful and the same deserves to be quashed.

Learned counsel further submits that the respondent has been made Principal over and above the petitioner and the petitioner is more qualified.

I have considered the submission, the petitioner appears to have received some



informations from R.T.I. On the basis of R.T.I. relating to the respondents, at the outset, it may be noticed that under the R.T.I. Act, information relating to third person is not allowed to be shared. It is also noticed that the petitioner has nowhere sought the said information and the same was given to some third person, which is being used by the petitioner. Further, the information nowhere states that the respondents is not B.Ed qualified.

It is also noticed that the requirement of passing Fazil is fulfilled by the respondents and the petitioner is also annexed the certificate showing that the respondent has cleared Adeeb Kamil examination from Jamia Urdu, Aligarh and Fazilat examination from Darul Ulim, Lucknow.

Question whether the qualifications are equivalent to B.Ed or not, cannot be gone into in a writ filed by the petitioner challenging appointment of respondent as he cannot be said in any manner to be having lis with the respondent except may be of having a personal grouse.

If the petitioner is so aggrieved, he is



always free to take up matter in appropriate Civil Court. Fishing enquiry on disputed question of fact in writ jurisdiction cannot be gone into, hence not maintainable.

The writ petition stands dismissed.

(Sanjeev Prakash Sharma, J)

pravinkumar/-

U			
---	--	--	--

