

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4858 of 2018

Subi Khanan Wife of Afsar Tabarak, resident of Village- Bathna, P.S.
Kesariya, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resource Development Department, Govt. of Bihar, patna.
3. The District Magistrate, East Champaran.
4. The District Education Officer, Motihari, East Champaran.
5. The District Programme Officer, Eastablishment, Motihari, East Champaran.
6. The Block Development Officer, Kesariya Block, East Champaran.
7. The Block Education Officer, Kesariya Block, East Champaran.
8. The Panchayat Secretary, Gram Panchayat Raj Bathana, Kesariya Block, East Champaran.
9. The Mukhiya, Gram Panchayat Raj Bathana, Kesariya Block, East Champaran.
10. The Chairperson, State Appellate Authority, Education Department, 5 C-D, Niyojan Bhawan, Bailey Roa
11. Shama Perween, Wife of Hatim Khan, resident of Village Bathana, P.S. Kesariya, District East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner	:	M/s S.B.K. Mangalam & Sanjeev Kumar Singh, Adv.
For the State	:	Mr.Madhaw Prasad Yadav -Gp23
For Respondent no. 8	:	Mr. Shashi Bhushan Kumar, Adv.
For Respondent no. 11	:	Mr. Shivendra Kishorre, Sr. Adv. with Mr. Nafisuzzoha, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

RESERVED JUDGMENT

Date : 01.12.2022

Heard the parties.

2. The instant writ petition has been preferred by the petitioner assailing the order passed by the State Appellate



Authority dated 27th February, 2018, whereby it set aside the order dated 20.09.2012 passed by the District Teacher Employment Appellate Authority. The issue relates to the employment of Panchayat Teachers in second phase 2008 in Gram Panchayat Raj Bathana, Kesariya Block, East Champaran. Eleven posts of Panchayat Teachers were available and out of them three posts were allegedly marked for unreserved female Urdu teachers. The petitioner had 71 per cent marks in Maulvi examination applied for the post of Urdu teacher. The respondent no. 11 who possessed 78 per cent marks in Maulvi examination, was selected and appointed on 29.12.2010.

3. The appeal was preferred by the writ petitioner before the District Appellate Authority against the selection of respondent no. 11. It was pointed out that the respondent no. 11 has two dates of birth, namely, 10.01.1983 in Fauqania and intermediate while in Maulvi examination the date of birth mentioned as 10.01.1987. The petitioner however alleges that the respondent no. 11 had a forged intermediate degree. Respondent no. 11 has been working for over more than one year as Panchayat Teacher as well as Panchayat Shiksha Mitra.

4. The District Appellate Authority while allowing the appeal of the petitioner held that respondent no. 11 had obtained



appointment fraudulently as she did not disclose that she was working as Panchayat Siksha Mitra and she could not have been appointed in 2010 as an Urdu Teacher on the basis of a certificate of Maulvi which she obtained in 2006 while she was already working as Panchayat Siksha Mitra since 2005. It is alleged that the respondent no. 11 prepared forged documents which she concealed while appearing for counselling before the Panchayat Selection Committee in 2008. The District Appellate Authority allowed the appeal of the petitioner and declared appointment of respondent no. 11 as invalid. The petitioner was directed to offered appointment in her place. Accordingly, the writ petitioner was appointed vide order dated 09.01.2012 where she joined on 12.01.2013.

5. The said order of District Appellate Authority was challenged before the State Appellate Authority and it was inter alia submitted that the date of birth was wrongly mentioned in the certificate of Vastania and Fauqania which was corrected to 10.01.1987 in the year 2012.

6. The respondent no. 11 has admitted that she was appointed as Panchayat Siksha Mitra in 2005 on the basis of her intermediate certificate. It is further submitted that she was selected as a primary teacher and in terms of Clause 20(i) of the



Bihar Panchayat Primary Teachers Employment Service Condition Regulation 2006. Rules regulation orders and instructions with regard to Panchayat Siksha Mitra stand repealed. Respondent no. 11 resigned on 30th December, 2010, and, thereafter submitted application for consideration for appointment on the post of Panchayat Teacher. After obtaining necessary permission from Block Education Officer it is stated in the application that she mentioned about her earlier employment as Block Teacher in Bathna Panchayat. The district authority cancelled appointment of respondent no. 11 directing appointment of the writ petitioner. She further relies on Clause 7 of the guideline for employment of primary teacher issued on 25.08.2008 which provided that a person of one unit can apply for employment in another unit through proper channel. The State Appellate Authority has wrongly allowed the appeal of the petitioner holding and declaring employment of respondent no. 11 as incorrect and not in accordance with law.

7. Learned counsel appearing for the petitioner has taken this Court to document Annexure “G” to point out that there was no mention regarding earlier employment whereas the document Annexure “B” filed by the respondent no. 11 mentions about having obtained permission from competent authority.



8. This Court finds that the application placed by the petitioner of the respondent no. 11 as Annexure “2” is an application for appointment of teacher. It does not contain details of previous employment in column 2 while the counter affidavit filed by the respondent no. 11 there is mention of about her previous experience of working as Shiksha Mitra with the block unit Bathna. The two applications Annexure “2” and Annexure “B” have been written differently. Another application form at Annexure “G” of the same respondent no. 11 does not mention about previous service similar to Annexure “2”. Both the Annexures, Annexure “2” and Annexure “G”, are documents made available under the Right to Information Act. Thus, so far Annexure “B” is concerned as filed by respondent no. 11 appears to be a separate document prepared later on in order to make out a case of respondent no. 11 that she had informed about her being employed as a Shiksha Mitra before seeking employment as a Panchayat Teacher. The Annexure “B” is therefore found to be a forged document prepared subsequently and can not be relied upon. Thus is suppression on the part of the respondent no. 11 of her earlier employment.

9. The State authority has also condoned the different date of birth of respondent no. 11 treating it to be inadvertently



mentioned in Fauqania examination which was got corrected later on. The respondent no. 11 therefore could not have been directed to be allowed to continue by the State Appellate Authority. The findings in this regard are found to be perverse. The question of obtaining Maulvi qualification during the period of serving as Shiksha Mitra, is also doubtful. It is also noticed that respondent no. 11 joined as Panchayat Teacher on 30.12.2010 and she resigned from her earlier post on 30.12.2010.

10. Thus, this Court is satisfied that the State Appellate Authority has rightly found the appointment of respondent no. 11 in accordance with law and that there has not been any concealment by her. When she was appointed as a teacher she resigned from the earlier post. This Court also finds that the post of Shiksha Mitra is not a post under the State services, no benefit of her earlier service as Shiksha Mitra has been given to the respondent no. 11.

11. In view thereof, her appointment as a teacher can not be questioned. The issue with regard to different application forms one mentioning about her previous service and the other not mentioning, will also go in her favour as admittedly the appointing authority has given her the benefit of having worked previously by granting her bonus marks. Thus, the application which was



available with the appointing authority was containing fact of her working earlier with the respondents as Shiksha Mitra.

12. In view of above, the writ petition **fails**. The order passed by the State Appellate Authority is upheld. No costs.

(Sanjeev Prakash Sharma, J)

Shamshad/-

AFR/NAFR	AFR
CAV DATE	01.09.2022
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