

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.521 of 2021

In
Civil Writ Jurisdiction Case No.17817 of 2015

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Rashmi Singh wife of Purushottam Kumar, D/o Balram Singh Resident of
Village- Balchand Bigha, P.S.- Bain, District- Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
2. The Director, Secondary Education, Govt. of Bihar, Patna.
3. The Regional Deputy Director of Education, Patna
4. The District Education Officer, Nalanda
5. The Chief Executive Officer, Zila Parishad, Nalanda

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Siya Ram Shahi, Advocate
For the Respondent/s : Mr. Priyadarshi Matin Sharan, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 23-03-2022

The present appeal is directed against the order dated 03.08.2021 passed by the learned Single Judge of this Court in CWJC No. 17817 of 2015 and one another analogous case, whereby and whereunder the writ petitions have been dismissed. As far as the present appeal is concerned, challenge has been made only by the writ petitioner of the first writ petition i.e. CWJC No. 17817 of 2015 (Rashmi Singh vs. The State of Bihar & Ors.).



2. The brief facts of the case are that the appellant herein had filed a writ petition *inter alia* praying therein for quashing the order dated 09.01.2015 passed by the District Teachers Employment Appellate Authority, Nalanda in Appeal No. 21 of 2014, whereby and whereunder the claim of the appellant herein regarding inclusion of her name in the merit list of 2012 pertaining to appointment on the post of Secondary School Teacher under the Zila Parishad, Nalanda had been rejected. The appellant had also prayed for quashing the letter dated 18.09.2012 issued by the Director, Secondary Education, declaring the Bachelor Preparatory Programme course (hereinafter referred to as the "BPP course") invalid for the purposes of appointment on the post of Secondary School Teacher. Admittedly, the petitioner passed the matriculation exam in the year 1999, whereafter she completed the BPP course and the bachelor degree programme in the year 2003 and 2010 respectively from Indira Gandhi National Open University, whereupon she has also completed the B.Ed. course from Magadh University, however, the appellant did not pass the intermediate exam, hence, she has been non-suited by the impugned order dated 09.01.2015, passed by the District Teachers Employment Appellate Authority, Nalanda, as upheld



by the learned Single Judge of this Court.

3. The learned counsel for the appellant herein has submitted that the BPP course pass certificate, granted by IGNOU, which has been established by an Act of Parliament in the year 1985, ought to have been treated valid for the purposes of appointment as a Secondary School Teacher, however, this aspect of the matter has not been considered by the learned Single Judge.

4. On the contrary, the learned counsel for the State has submitted that first of all, BPP course/programme has been declared to be not valid for the purposes of appointment as a Secondary School Teacher and secondly; as per Rule 3 to 6 of the Bihar Zila Parishad Secondary & Higher Secondary Teacher (Employment and Service Conditions), Rules, 2006, neither BPP course has been treated to be equivalent to the intermediate course nor merit point can be granted for the BPP course since the calculation of merit point of candidates are to be ascertained on the basis of marks obtained in matric, intermediate, graduation, post-graduation and B.Ed. courses thus the appellant herein could not have been given any credit for the BPP course for the purposes of determination of her merit point for appointment as a teacher in Zila Parishad.



5. We have heard the learned counsel for the parties and perused the materials on record. At this juncture, it would be apt to reproduce paragraph Nos. 4 to 8 of the impugned order dated 03.08.2021 herein below:-

“4. There is no dispute that Intermediate qualification is one of the basis for selection to the post of Secondary School Teacher in Zila Parishad. The short question these writ petitions involve is as to whether completion of BPP by the petitioners while pursuing their Graduation course in IGNOU can be treated to be 10+2 qualification or equivalent to 10+2 qualification. Learned Appellate Authority, Nalanda has rejected the claim of the petitioners that their BPP qualification should be treated as 10+2 qualification.

5. Learned counsel for the petitioners has submitted that there is no valid reason for denying equivalence of BPP qualification with Intermediate or 10+2 qualification, which the petitioners completed before beginning their Graduation course in IGNOU.

6. Learned State counsel, on the other hand, has submitted that there is no legal infirmity in the impugned order, as BPP is merely a preparatory programme for preparing candidates to pursue their Graduation course if they do not have Intermediate/ 10+2 qualification. It is a short preparatory programme of six months which can, by no stretch of imagination, be treated equivalent to 10+2 course. He has submitted that Bihar Zila Parishad



Madhyamic avam Uchhata Madhyamic Sikshak (Niyojan avam Sewa Sart) Niyamawali, 2006 provides specifically, calculation of merit points of candidates to be ascertained on the basis of marks obtained in Matric, Intermediate, Graduation, Post-Graduation and B.Ed. courses. The petitioner's could not have been given any credit for their BPP course for the purpose of determination of their merit points for their appointment as Teacher in Zila Parishad.

7. In my opinion, power to make appointment vested in a competent authority includes power to prescribe qualification and to determine a reasonable, objective basis for selection by assigning due weightage against qualification possessed by candidates participating in the process of selection. It is within the exclusive domain of the executive to prescribe a particular qualification as the basis for process of selection till such prescription is irrational and completely unreasonable.

8. I do not find any merit at all in these applications. There is absolutely no reason why a short preparatory programme for Bachelor course should be treated equivalent to 10+2 course. The impugned orders do not suffer from any illegality requiring this Court's interference."

6. We thus find that admittedly the relevant rules prescribe the qualification and the basis for selection of a candidate by assigning due weightage against qualification possessed by the



candidates participating in the process of selection and since the appellant herein does not possess intermediate pass certificate, no weightage could have been given to her against the said qualification, more so in view of the fact that BPP course/ programme, pursued and passed by the appellant is not considered equivalent to the intermediate course. In such view of the matter, no infirmity can be found with the impugned order dated 03.08.2021 passed by the learned Single Judge in CWJC No. 17817 of 2015, hence the present appeal stands dismissed being devoid of any merit.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

S.Sb/-

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