

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15440 of 2022

=====

Shila Kumari, Female, Aged about 43 years, Wife of Sri Jitendra Kumar Singh, Resident of Village- Sunder PS- Dawath, District- Rohtas (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Human Resource Development, Government of India, New Delhi.
2. The Commissioner, Navodaya Vidyalaya Samiti, B/15 Institutional Area, Sector- 62, Noida-201307 (U.P.).
3. The Joint Commissioner (Personnel), Navodaya Vidyalaya Samiti, B/15 Institutional Area, Sector- 62, Noida-201307 (U.P.).
4. The Deputy Commissioner, Navodaya Vidyalaya Samiti, Patna Region, Boring Road, Patna (Bihar).
5. The Principal, Jawahar Navodaya Vidyalaya, Dalmianagar, Rohtas (Bihar).
6. Smt. Amrita Sinha, Lower Division Clerk, Jawahar Navodaya Vidyalaya, Nawada District- Rohtas (Bihar).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Munna Pd Dixit, Advocate Mr. S.K. Dixit, Advocate Mr. S.K. Choubey, Advocate Mrs. Swastika, Advocate
For the UOI	:	Mr. Kumar Priya Ranjan, CGC Mr. Ankur Apurv Singh, AC to CGC

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-12-2022

Heard learned counsels for the respective parties.



2. Matter relates to selection and appointment to the post of Lower Division Clerk in the Navodaya Vidyalaya Samiti. The petitioner was selected among another. Her name appears at serial No. 1 in the merit list. The respondent – Department noticed that inadvertently she has been awarded certain marks for which she was not entitled to. In the guise of rectification of the merit list, the petitioner has been pushed down at serial No. 2. The selected candidate Sri. Rajesh Kumar @ Rajesh Kumar Yadav has given his unwillingness to join the post of Lower Division Clerk even though he has been selected. In this backdrop, question for consideration is whether petitioner is entitled to be appointed against a vacancy caused due to non-acceptance of selection and appointment by Sri. Rajesh Kumar @ Rajesh Kumar Yadav. In other words, unwillingness given by Sri. Rajesh Kumar @ Rajesh Kumar Yadav resulted in falling vacancy, such vacancy cannot be filled up by next merited candidate in the light of Apex Court's decision in the case of *State of Rajasthan vs. Kiran Meena* reported in **(2018) 12 SCC 503**. In other words, unfilled vacancy is required to be carried forward to the next recruitment.

3. In the light of these facts and circumstances, there is no infirmity in the order of the Tribunal dated 12.02.2020 passed in OA No. 050/00711 of 2016 read with order dated 01.06.2020



passed in R.A. No. 050/00007 of 2020. Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2022
Transmission Date	

