

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5588 of 2018

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Santosh Kumar S/o Satyendra Yadav, R/o Village-Sabaila, P.O.-Dhanchhoha,
P.S.-Saur Bazar, Distt.-Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. That Director Primary Education, Education Department, Govt. of Bihar,
New Secretariat, Patna.
3. The District Magistrate, Madhepura.
4. The District Education Officer, Madhepura.
5. The Block Development Officer, Ghailarh Block, District-Madhepura.
6. The Block Education Officer, Ghailarh, Block Distt-Madhepura.
7. The Mukhiya, Gram Panchayat Raj Arraha, Mahua Dighra, Block Ghailarh
Distt.-Madhepura.
8. The Panchayat Secretary, Gram Panchyat Raj Arraha Mahua Dighra, Block
Ghailarh, Distt.-Madhepura.
9. Suresh Kumar, S/o Yogendra Prasad Yadav, R/o Village Lalpatti Sukhasan,
P.O. Kataiya, P.S. Singheshwar, Distt.-Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Adv.
For the State	:	Mr. Madanjit Kumar- GP20
For the respondent 7&8	:	Mr. Sanjeev Kumar Singh, Adv.
For the respondent no. 9	:	Mr. Dilip Kumar Tiwary, Adv.
		Mr. Shambhu Sharan Kumar, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

- 3 15-11-2022 1. The petitioner by way of this writ petition assails the order passed by the District Appellate Authority dated 14.10.2017 and the order passed by the State Appellate Authority dated 17.01.2018, whereby the Appellate Authority as well as the State Appellate Authority have rejected the claim of the petitioner.



2. Learned counsel submits that the appellant was placed in the merit and was offered appointment based on his merit marks i.e. 62.26 % while the respondent had only 59.24% marks.

3. The respondent preferred an appeal before the District Appellate Authority who has wrongfully held that the petitioner to be not entitled for the marks as calculated for the purpose of merit.

4. Learned counsel submits that he has been rightly given the total marks as 622 based whereon he obtains an overall merit of 62.26%, while the respondent obtained 565 marks out of 900 and therefore was placed much below the petitioner in the merit list.

5. The learned counsel further submits that the State Appellate Authority has also failed to notice that the petitioner had been rightly granted the benefit of marks in vocational subjects as the same was also a compulsory subject.

6. The learned counsel for the respondent no. 9 (i.e. Suresh Kumar) supports the orders passed by the District Appellate Authority as well as the State Appellate Authority and contends that the marks obtained in subjects that are not compulsory and vocational cannot be counted for assessing the



overall merit in terms of the order issued by the State Government for preparation of merit dated 22.08.2012.

7. I have considered the submissions, the Education Department issued a clarification relating to preparation of merit vide letter dated 22.08.2012 during the employment of Panchayat Teachers in the year 2012. It was clarified that the marks obtained in vocational subject in intermediate shall not be added for calculating the marks obtained by the candidate for the purpose of employment as Panchayat Teacher. The petitioner has been given the benefit of the marks that he obtained in the vocational subject resulting in his total marks enhancing to 622 from 565. His overall merit was assessed as 62.26% while that of the respondent was placed as 59.24%. If the marks of vocational subjects are excluded, the total marks of the petitioner would fall to 59.09 which is less than that of the respondent.

8. Having noticed the aforesaid facts, the District Appellate Authority allowed the appeal of the respondent and the State Appellate Authority has dismissed the appeal preferred by the petitioner upholding the order of the District Appellate Authority.

9. In the opinion of this Court, such marks of



vocational subject have been specifically excluded while preparing of merit as per the directions of the Education Department letter dated 22.08.2012.

10. Keeping in view thereto, the action of the concerned employment unit in adding marks obtained in vocational subject for the petitioner was clearly unjustified and takes away the valuable right of selection and appointment of the respondent.

11. The orders passed by the District Appellate Authority as well as the State Appellate Authority are therefore found to be in consonance with the law as laid down for preparation of the merit.

12. No case for interference is warranted. The writ petition is devoid of merit and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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Item no. 155

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