

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5143 of 2019

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Madhulika Sinha Wife of Ajay Kumar Sinha Resident of Mohalla-Gachi Tola,
Ward No.9, Power House Road, P.S. and District-Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna
2. The District, Primary Education, Government of Bihar, Patna
3. The State Appellate Authority, Education Department, Bihar, Patna through its Chairperson
4. The District Teachers Niyojan Appellate Authority, Begusarai
5. The District Magistrate, Begusarai
6. The District Superintendent of Education Begusarai
7. The District Programme Officer Establishment, Begusarai
8. The Block Development Officer, Begusarai
9. The Block Education Officer, Begusarai
10. The Panchayat Employment Committee, Panchayat raj Bhairbar, Block and District- Begusarai
11. The Panchayat Secretary, Panchayat Raj Bhairbar, Block and District Begusarai
12. The Mukhiya, Panchayat Raj Bhairbar, Block and District Begusarai
13. Kiran Kumari, D/o Shri Balram Prasad Singh, Vill- Eniyar, P.O. Bhairvan, P.S. Balia, Distt. Begusarai, At Present Posted at Navshrijit Vidyalaya Pouralla, Dhanuk tola, Block and Distt. Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Ratna Kumari, Advocate
For the Respondent/s : Mr.Kameshwar Kumar (GP 17)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 11-12-2023

1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for quashing of the order dated 18.09.2018 (Annexure-13), passed by the State Appellate Authority, Patna in Appeal no. 9 of



2018 and further to quash the orders contained in Annexures 4 and 6 dated 05.06.2010 and 26.02.2016, passed by District Appellate Authority, Begusarai as also the order dated 17.10.2017, passed by State Appellate Authority, as contained in Annexure 8 with further direction to the respondent- authorities to appoint the petitioner as Panchayat Teacher under Panchayat Raj- Bhairbar under the District of Begusarai on the basis of merit list prepared by the Panchayat Employment Committee in the year 2007.

3. The brief facts of the case are that the petitioner belonging to Un-reserved category (Female), applied for the post of Panchayat Teacher (untrained) on 04.09.2006 in the first phase of employment under ***Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (hereinafter referred to as “2006 Rules”)***. Altogether 146 candidates applied for the said post out of which, 11 candidates were trained teachers and the rest 135 were untrained teachers. In the merit list prepared on 15.02.2007, the petitioner was placed at serial no. 2 in the list of untrained teachers. The Panchayat Employment Committee in its meeting held on 15.02.2007 decided to prepare merit list for one post under Un-reserved (Female) category. The candidate placed at serial no. 1



of the merit panel did not turn up and accordingly, the petitioner came at serial no. 1 in the merit panel. The counseling was held but subsequently, the merit list/ the merit panel was scrapped in the meeting of Panchayat Employment Committee held on 24.10.2007. The merit list was found defective, therefore it is decided to take guidance from the Block Development Officer, Begusarai.

4. Thereafter, the petitioner filed complaint before the District Magistrate, Begusarai and finally, she filed an appeal bearing Appeal no. 515 of 2009 before the District Appellate Authority, Begusarai alleging arbitrariness in the decision for cancellation of the merit panel. The appeal was dismissed vide order dated 05.06.2010 taking into consideration that without any vacancy of Panchayat Teacher, the application forms were invited and that too without any approved roaster. Subsequently, fresh applications were invited, in which, even if the marks of the petitioner is taken into account, her appointment was not possible, meaning thereby, the petitioner did not find place in the merit panel.

5. Against the aforesaid order dated 05.06.2010 of the District Appellate Authority, Begusarai, the petitioner approached this Court in C.W.J.C. no. 7899 of 2011 and this



Court vide its order dated 19.01.2016, disposed of the writ application with liberty to the petitioner to avail appropriate remedy. The petitioner again moved before the District Appellate Authority and her appeal was dismissed for the second time vide order dated 26.02.2016. The Appellate Authority observed that the matter has already been decided by the District Appellate Authority and due to lapse of substantial time, adjudication does not seem judicious. Being aggrieved by the same, the petitioner again moved before the High Court in C.W.J.C. no. 9646 of 2016 and vide order dated 08.08.2017, the same was disposed of as withdrawn with liberty to the petitioner to approach the State Appellate Authority. The State Appellate Authority dismissed the Appeal no. 428 of 2017 on 17.10.2017 observing that the employment relates to first phase of appointment of Panchayat Teachers held in the year 2006 under **2006 Rules** and the same has been completed 10 years ago. Subsequently, **Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2012** have been invoked and several rounds of employments have been made between the intervening period.

6. Against the aforesaid order of the Appellate Authority, the petitioner again approached this Court in



C.W.J.C. no. 1726 of 2018 but the writ petition was dismissed on 04.05.2018 by this Court on the ground that at the relevant time, there was no vacancy of the Panchayat Teacher and the State Appellate Authority has rightly dismissed the appeal filed by the petitioner. The petitioner filed a review petition against this order bearing Civil Review no. 192 of 2018 contending that at the relevant time, vacancy was existing. This Court vide order dated 25.07.2018, disposed the review application with liberty to the petitioner to file review of the order of the State Appellate Authority instead of filing review of the order passed in C.W.J.C. no. 1726 of 2018. The State Appellate Authority vide order dated 18.09.2018 dismissed the case of the petitioner in Appeal Case no. 09 of 2018 observing that the petitioner was never selected.

7. Learned counsel for the petitioner argues that the petitioner was selected in the first selection process but subsequently, without any reason/ occasion, the merit list/ selection list was scrapped, appointment of the petitioner was cancelled and the case of the petitioner was not considered properly by the District Appellate Authority as also by the State Appellate Authority. She further contends that the matter may be remitted back to the State Appellate Authority to consider the



matter in the light of the High Court's order and appointment of the petitioner be made, if there is any vacancy. Learned counsel further argues that the petitioner has got all the subsequent qualifications as that of STET and other eligibility criteria.

8. Learned counsel for the State argued that State Appellate Authority has rightly dismissed the appeal of the petitioner as the matter relates to first phase of appointment of Panchayat Teachers started in the year, 2006. He further submits that the name of the petitioner did not find place in the merit panel and the first panel which was prepared, was scrapped due to the fact that there was discrepancy in preparation of the merit panel.

9. I have heard learned counsel for the parties and perused the materials on record. The State Appellate Authority has arrived at the conclusion that when fresh applications were invited, the petitioner had lower marks and therefore, she could not have been selected and employed. *The Employment Rules, 2006* has been replaced by *Employment Rules, 2012*. After the first round of employment made in the year 2006, several rounds of appointment of Panchayat Teachers have been completed. Vacancies remaining at the end of the year, 2010 were carry forward and merged with the vacancies of the year



2012 for appointment to be made under *Employment Rules, 2012*, which has also been completed long back. The norms, criterion and the procedure for appointment under *Employment Rules, 2006* have been modified under *Employment Rules, 2012*. Therefore, the claim of the petitioner for appointment on the basis of her application submitted in the year, 2006 under *Employment Rules, 2006* cannot be considered now under *Employment Rules, 2012* with changed norms and criterion. The Employment Unit in its meeting held on 24.10.2007 decided to scrap the merit list, which was found defective and subsequently after following the rules, fresh applications were invited, in which petitioner participated but was not placed in the merit list. The petitioner is trying to challenge the decision of the employment unit by which the first merit list was scrapped.

10. This Court had dismissed the writ application filed by the petitioner bearing C.W.J.C. no. 1726 of 2018 on the ground that at the relevant time, there was no vacancy of Panchayat Teacher, as such, the decision of the employment unit to scrap the first list cannot be faulted with. Apart from the above, since the year 2006, second phase and third phase of selection of teachers have been completed and all the vacant posts have been merged for appointments to



be made under **2012 Rules**. Now, new Rules namely ***Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceedings and Service Conditions) Rules, 2023*** has come into force with effect from 10th April, 2023, however the petitioner has crossed the upper age limit and as of now, the petitioner is aged about 43 years whereas for general category candidates, the upper age limit is 33 years, as such, no relief can be granted to the petitioner for appointment on the post of Panchayat Teacher on the basis of the Advertisement published in the year 2006.

11. Accordingly, I do not find any infirmity in the order passed by the State Appellate Authority, as a result, the present writ application is dismissed.

(Anil Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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